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MANAGEMENT AUDIT
OF THE
EARLY RETIREMENT PROGRAM
AS ADMINISTERED BY THE
EMPLOYEES' RETIREMENT SYSTEM

CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS
BUDGET ANALYST

OCTOBER 1992

CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET ANALYST

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October 1, 1992

Honorable Tom Hsieh
Member, Board of Supervisors
City and County of San Francisco
Room 235, City Hall
San Francisco, California 94102

Dear Supervisor Hsieh:

Transmitted herewith is the Budget Analyst's management audit report of the Early Retirement Program as administered by the Employees' Retirement System (ERS). This management audit was conducted in accordance with Charter Section 2.401, which authorizes the Board of Supervisors to make inquiries concerning departmental operations.

In November 1991, the San Francisco voters approved a proposition that offered City, San Francisco Unified School District and Community College District employees incentives to retire early (Proposition A). According to Proposition A, eligible employees who retired between February 1, 1992 and March 31, 1992 would receive retirement benefits as if they were three years older and had worked for the City three additional years. Thus, a 57 year old employee who had worked for the City for 27 years was eligible during that time frame to receive retirement benefits as if he or she were 60 years old and had worked for the City for 30 years. A total of approximately 1,336 City employees and 416 San Francisco Unified School District and Community College District employees retired under the Early Retirement Program, for a total of 1,752 employees.

Proposition A was intended as a cost saving effort. Proposition A required that at least 500 or fifty percent of the vacated non-mandated City positions, whichever was larger, were to be abolished by the Mayor in the Fiscal Year 1991-92 budget. A three-member Proposition A Committee, consisting of the Controller, the Mayor's Director of Finance, and the General Manager of Civil Service, as well as two non-voting labor representatives, was established to determine which retiring positions

should be filled. Of the 1,336 City employees who retired, 836 positions, or 62.6 percent of the vacated positions, were authorized not to be eliminated by the Proposition A Committee. The remaining 500 positions were abolished.

Of the 500 positions eliminated by the Proposition A Committee, 35 positions were restored by the Mayor's Office in the Fiscal Year 1992-93 budget with approval of a two-thirds vote of the Board of Supervisors. Thus, a total of 465 positions were abolished as a result of Proposition A, resulting in an estimated gross savings for Fiscal Year 1992-93 of $22.8 million. However, considering the costs of backfilling critical positions, the costs of the implementation of the Early Retirement Program and the increased costs of the retirement benefits for the 1,336 City employees who retired early, the estimated Fiscal Year 1992-93 net savings from Proposition A was $12.1 million.

The Employees' Retirement System achieved various accomplishments in the implementation of the Early Retirement Program, including:

- The provision of necessary information to every City employee eligible to retire under the program in order that City employees could make a satisfactory decision regarding his or her retirement and in order that City employees who might be interested in early retirement were not overlooked.

- Retirement benefit calculations were completed for approximately 6,400 eligible City, School District and Community College District employees, all of the eligible employees were provided with written information and approximately 3,500 received in-person interviews as well. In a typical year, without an Early Retirement Program, 500 such calculations and meetings would take place.

- Overall, eligible City employees reported that they were very satisfied with the implementation of the Early Retirement Program. Many City employees report that ERS staff were knowledgeable and polite, that written materials were clear and thorough, and that the decision to retire or not to retire was made with sufficient information. Of a total of approximately 1,336 City employees who decided to retire, only five persons, or approximately ¼ percent, later decided to rescind their retirements and return to work. The small number of rescinded retirements indicates that eligible employees who decided to retire were satisfied with their decision.

- Many of the efforts of ERS and the contractor which was retained to assist in the implementation of the Early Retirement Program will have lasting benefit to the City, in that research and pension estimates as of February 1, 1992 have been completed for every employee who was eligible for early retirement under the Early Retirement Program. Since every employee over the age of 47 and/or with 17 years of service was eligible for early retirement, or 6,400 employees, the demand for research and pension estimates in future years will be significantly reduced.

However, despite the accomplishments of the ERS, the Budget Analyst has identified serious deficiencies on the part of ERS in the implementation of the Early Retirement Program. A summary of our management audit findings is as follows:

- The contractor selection process was highly questionable and resulted in excessive costs to the City. No documented selection criteria was established by ERS.

- ERS retained an outside contractor, Towers, Perrin, Crosby & Forster (TPF&C) to assist ERS in the implementation of the City's Early Retirement Program. This contract was contrary to the best interests of the City, in that:

  - The contract contained no cost limits or guaranteed levels of service, although ERS staff specifically advised the Retirement Board that such cost limits would be included in the contract;

  - The rates of TPF&C, which ranged from $47 per hour for clerical support to $375 per hour for partners, were higher than any of the other bidders that proposed hourly rates;

  - ERS did not include a statement in its Request for Proposal (RFP) that preference would be given to bidders with MBE/WBE participation, and it does not appear that any preference for MBE/WBE participation was used in the selection process. ERS selected a contractor that did not include any MBE/WBE contractor participation in its original bid, although two of the other bidders included MBE/WBE contractor participation;

  - ERS staff did not include adequate oversight provisions in the contract with TPF&C;

  - Although ERS advised the Budget Analyst that TPF&C was the only bidder which agreed to work within the City's budget of $1,360,288 for contractual services, ERS did not make inquiries to all of the other bidders to determine if such other bidders would also be agreeable to working within the City's budget. In fact, one of the other bidders had also stated that it would work within the City's budget;

- In testimony to the Retirement Board on October 8, 1991, ERS staff stated that they would meet with TPF&C to draw up a contract, which, according to the General Manager of ERS, "would detail what they will give us, what they will charge us, with certain caps on the cost." However, ERS failed to draw up such a contract. The contract which was awarded did not detail specified levels of service for the contractor, did not fix fees, and did not limit costs.

- As a result, the finally authorized contract cost for the services of TPF&C of $3,049,052 exceeded the original authorized contract cost of $1,360,288 by $1,688,764, or more than 124 percent.

- Contractor costs were incurred before an appropriation was authorized by the Board of Supervisors.

- As documented on page 20 of this report, based on an excerpt from a transcript of the December 10, 1991 Retirement Board meeting, ERS staff and the Vice President of the Retirement Board blamed the Mayor and the Board of Supervisors for the cost overruns. The Vice President of the Retirement Board stated that the problem was the "procrastination of the Board of Supervisors." The Deputy General Manager stated that faster action by the Board of Supervisors would have allowed ERS to begin the program a month and a half earlier. In fact, the Board of Supervisors responded very quickly to the Retirement Board's request: the Board of Supervisors Finance Committee approved a supplemental appropriation and the release of funds to the Retirement Board one week after the Retirement Board had selected a contractor.

  It is possible that if ERS had more time to prepare for the Early Retirement Program, costs could have been minimized. However, the runaway costs of the ERS contractual services expenditures cannot be blamed on procrastination on the part of the Board of Supervisors. This shifting of blame by ERS to the Board of Supervisors is totally unjustified.

- Legislation previously approved by the Board of Supervisors, based on the Budget Analyst's finding that ERS had entered into a contract containing no limits on costs or guaranteed levels of service, should prevent the repetition of such open-ended contracts. This legislation requires that future contracts specify cost limits and levels of service.

- City-wide written contractor selection and oversight criteria has been established by the Purchaser for personal services contracts. However, the Purchaser does not have the authority to require that departments conform to these criteria. Therefore, the Board of Supervisors should establish legislation requiring that City departments select and oversee contractors according to the Purchaser's criteria.

- In our judgment, the oversight by ERS was entirely inadequate. ERS did not establish written oversight procedures including: an outline of authorized work; project objectives; project organization; organization of the project team; project schedule and milestones; and action steps and review points. ERS made no independent confirmation of contractor hours which were billed to the City, and ERS never requested any source time records from the contractor. That project oversight was inadequate is supported by the tremendous cost overruns billed to the City by the contractor. ERS states that it was unable to develop any workplan, since the Department was unable to anticipate the scope of the project in advance.

- The Retirement Board provided 124 City and San Francisco Unified School District employees who had retired effective September 1, 1991 with the opportunity to rescind their retirements, repay their previously cashed pension warrants, and retire again during the early retirement window, even though Proposition A stated that "This early retirement incentive shall apply only to members who retire from service with an effective date of retirement on or after February 1, 1992 and prior to March 31, 1992." Of the 124 employees given this opportunity, 45 accepted the early retirement benefit. This decision not only was clearly not in the best interests of the taxpayers of the City and County of San Francisco but was also contrary to the provisions of the Proposition A Early Retirement Program Charter Amendment as approved by the voters of the City and County of San Francisco.

- This decision of the Retirement Board was made despite the recommendations of the ERS staff and the City Attorney's Office which recommended against allowing any employees to rescind their retirements and retire again, on the basis that ERS is obligated only to inform members of actual provisions of the Retirement System, and is not obligated to inform members of possible future provisions. Further, according to one Member of the Retirement Board, who is an attorney, the Retirement Board was under no clear legal obligation to allow individuals to rescind their retirements and to retire again. By permitting employees who had previously retired to undo their previous retirements and retire again under the Early Retirement Program, the Retirement Board awarded 45 employees enhanced retirement benefits and incurred an unjustified and unnecessary estimated cost to the City of $1.5 million, rather than saving City funds in accordance with the intent of Proposition A.

- In addition to the fact that the Retirement Board's decision was contrary to the provisions of Proposition A, the timing of the Retirement Board's decision was inequitable since employees who retired on September 1, 1991, were given notice that they could rescind their previous retirements, repay previous pension benefits, and redo their retirements under the Early Retirement Program only up to three working days prior to the end of the early retirement window.

- Since the positions of those employees who originally retired September 1, 1991 under the regular retirement process were not required to be abolished under the mandates of Proposition A, no hiring freeze for those positions was in place. Therefore, these positions could not be eliminated by the Proposition A Committee after the original retirements were rescinded and those individuals retired again. Since Proposition A was intended as a cost-saving measure, with savings to be realized through the abolishment of positions, allowing early retirements without consideration to the abolishment of these positions subverted the cost-saving intent of Proposition A.

- The City Attorney's Office advises that although employees are routinely authorized to rescind their retirements if they have not yet cashed a pension check and withdrawn funds from the Retirement Trust Fund, this decision by the Retirement Board marks the first time that employees, whose first pension checks already had been cashed, were allowed to rescind their retirements. The attorney Member of the Retirement Board advised that there is concern that the Retirement Board's decision may now set a precedent whereby individuals who have cashed their first retirement check will attempt in the future to undo their retirements.

- According to the City Attorney's Office, the decision to allow those employees to retire again during the early retirement window is not intended to open the process to employees outside the window. Instead, the City Attorney's Office advises the decision was made to correct an information gap, in that ERS knew before September 1, 1991 that Proposition A had been approved by the Board of Supervisors for placement on the November 1991 ballot, but did not provide any information regarding Proposition A to employees who retired on September 1, 1991.

- The City Attorney's Office reports that the Retirement Board had the independent authority to provide those 124 employees who received their first retirement check on September 1, 1991 with the opportunity to rescind their retirements and repay the Retirement Trust Fund because the Retirement Board has the authority to administer the City's pension program. While the Budget Analyst's Office does not represent itself to possess legal expertise, we question this advice of the City Attorney's Office given that the Retirement Board's decision to permit employees who retired on September 1, 1991 to take advantage of the Early Retirement Program is contrary to the provisions of Proposition A which specifically stated that to take advantage of the Early Retirement Program, the retirements under this Charter Amendment must have occurred between February 1, 1992 and March 31, 1992.

- According to the Vice President of the Retirement Board, it was a generally held perception of the Retirement Board that only a few employees would rescind their retirements, because in order to retire again, individuals were required to make an immediate pay-back of any funds received from the Retirement System.

However, there is no documentation that this was the generally held perception and, in any event, all employees were in fact made eligible to rescind their retirements and retire again.

- Employees who rescinded their original retirements and retired again during the early retirement window were asked to sign a "Settlement and Release of Claims." This Settlement and Release of Claims stated: "Member agrees that s/he will neither disclose nor voluntarily allow anyone else to disclose either the reasons for or the provisions of this agreement, or otherwise communicate the circumstances of this dispute or the basis or terms for its resolution without the System's prior written consent unless compelled to do so by legal process." The Settlement and Release of Claims is included as Appendix A at the end of this report. Since a City employee's retirement is a matter of public record, we find the confidential nature of this Settlement and Release of Claims to be curious and questionable.

- The cost to the City, the possibility of precedence setting and the inequitable nature of the decision could have been avoided if the Retirement Board had decided not to allow individuals to rescind their initial retirements and then allow these individuals to retire again during the early retirement window.

- In accordance with Charter Section 3.670, the Retirement Board presently consists of three members appointed by the Mayor, three members elected from active members (employees), who shall not include retired persons of the retirement system, and the President of the Board of Supervisors. Under this composition of the Retirement Board, only one member, the President of the Board of Supervisors, is directly accountable to the San Francisco electorate as an elected official.

- The Board of Supervisors should submit a Charter Amendment to the electorate for the purpose of abolishing the Retirement Board as it is presently constituted and instead have the President of the Board of Supervisors and three Members of the Board of Supervisors, each of whom is accountable to the San Francisco electorate, together with three employee member representatives, serve as the newly established Retirement Board. Decisions affecting millions of dollars of taxpayers' monies contained in a $5.2 billion Retirement System Trust Fund should not be left in the hands of a majority of non-elected officials who do not have the same level of accountability to the San Francisco electorate as elected officials have.

- The Retirement Board, with the advice of ERS staff, knew that the Retirement Trust Fund would recover whatever costs were expended for the Early Retirement Program through the process of establishing the City's retirement contribution rate to support pensions and benefits for City retirees.

- As a result, the Retirement Board and ERS staff were not adequately concerned with minimizing costs and in fact obtained authority to expend 124 percent more in costs to implement the Early Retirement Program then the original cost estimates. Costs might have been controlled if ERS had budgetary incentives.

- This lack of concern is documented on pages 33 and 34 of this report based on an excerpt from a transcript of the October 8, 1991 Retirement Board meeting. At that meeting one Member of the Retirement Board stated "The issue of waste isn't what I am particularly concerned about. We would normally recoup that money through the way we set our tables in the future. We could conceivably capture it all back in one year . . . We have the authority to do that, right?"

- Regarding the amount of over $3 million appropriated for TPF&C, the outside consultant, one Retirement Board Member stated "In reference to the $3.4 million, it comes out of the Trust now, but in the end, we bill the City's General Fund for this?"

- The Employees' Retirement Trust Fund supports the annual budget of ERS as well as pension benefits for City employees. The Trust Fund is comprised of investment income and contributions from the City and from members of the Retirement System. The City contribution to the Retirement Trust Fund, according to Section 16.63 of the Municipal Code, should equal the amount necessary to pay all pensions and all other allowable benefits, with appropriate exceptions.

- Thus, the Retirement Board establishes a rate on an annual basis, designed to support (a) not only the pensions and benefits for members of the Retirement System but (b) also the administrative costs of the Employee's Retirement System. According to Section 16.39 of the San Francisco Municipal Code, the Retirement Board has exclusive control of the administration and investment of the Trust Fund. Thus, the Mayor and the Board of Supervisors must accept the retirement contribution rate established by the Retirement Board, without disputing the justification for such a rate. The rates established by the Retirement Board for 1991-92 were 12.67 percent of total salaries for Miscellaneous employees, 25.92 percent for Police Officers and 50.65 percent for Firefighters. The General Fund supports approximately 81 percent of the City's contribution to the Trust Fund. Thus, any decrease in the City's contribution to the Trust Fund results in direct savings to the General Fund.

- With respect to the ERS Investments Division, some expenditures are presently being made directly from the Trust Fund without appropriation by the Board of Supervisors. Such expenditures have included professional services, travel expenditures, equipment data processing services and others.

- Because the rate setting process establishes a mechanism whereby administrative costs, in whatever amounts, can be recovered from the City,

there is no incentive for the Retirement Board to contain costs. Since the Retirement Board has the sole authority to establish contribution rates, the Board of Supervisors should submit a Charter Amendment to the electorate in order that the City's retirement contribution rates now set by the Retirement Board are subject to approval of the Mayor and the Board of Supervisors. The Board of Supervisors should further request that an itemized justification for the retirement rate setting process be provided. The Charter Amendment should require the Mayor and the Board of Supervisors to review the rate setting process in order to identify possible administrative cost overruns.

- The Retirement System General Manager advises that in a typical year, approximately 500 persons retire. However, as part of the Early Retirement Program, calculations were completed for 6,400 City and School District employees. Thus, ERS completed approximately 13 years' worth of service calculations in a five month period. These service calculations are now complete for any employees who are currently at least 47 years old and have at least 17 years of service, and as such will not need to be completed in future years when those individuals elect to retire.

- Because calculations have been completed for a substantial portion of future retirees, and since fewer individuals are anticipated to retire over the next three years, ERS' workload is anticipated to be substantially reduced over the next few years. Specifically, the Budget Analyst anticipates that for the next three years, ERS workload will be reduced by a total of 4,000 hours. As a result, ERS staff should be reduced and the savings resulting from staff reductions should be reflected in reduced contribution rates.

- Based on the Budget Analyst's survey of 91 employees who elected to retire, most persons attended both a group interview and an individual interview, even though most did not have questions that could not be asked in the group setting.

- Respondents reported average interview times that were shorter than the contractor, TPF&C, reported. According to TPF&C, the average interview time was just over one hour. This is not consistent with the Budget Analyst's finding that interviews lasted approximately 43 to 47 minutes for those who elected to retire, or approximately 25 percent less time than TPF&C advises. As a result, the City may have paid for more contractor hours than it received.

- ERS encouraged interviewees to fill out a number of forms before coming in for their interviews. For example, individuals were asked to complete name and address portions of forms in advance. Encouraging employees to fill out forms as much as possible in advance saves the City money, in that the contractor's interview staff spends less time waiting while individuals complete forms during the interview period. However, respondents reported spending an average of eight minutes reading written information and just over ten minutes filling out forms at the interview. As a result, contractor staff time may have been

inefficiently utilized. To the extent that these activities could have been completed in advance, costs to the City would have been minimized.

- All employees who were eligible to retire automatically received several pieces of written information, and all individuals who elected to retire were requested to attend individual interviews.

- Costs were not reduced despite the fact that pension calculations had been completed prior to the Early Retirement Program for a number of eligible employees. These unnecessary costs represented over 52 percent of the total costs to conduct the individual interviews.

- An estimated $360,963 for individual interviews could have been saved, because individual interviews could have been replaced with group interviews or walk-in counselors, shortened, and provided to fewer employees.

We recommend that the Board of Supervisors:

- Adopt legislation requiring that all City Departments conform to the standard criteria already established by the Purchaser for the selection and oversight of personal services contracts.

- Authorize the Purchaser to disapprove contracts awarded by City departments which are not selected under the Purchaser's standard criteria.

- Submit a Charter Amendment to the electorate for the purpose of abolishing the Retirement Board and having the President of the Board of Supervisors, three members of the Board of Supervisors, and three employee representatives assume the role of the Retirement Board. Members of the Board of Supervisors are subject to far greater scrutiny than the Retirement Board as it is presently constituted and furthermore Members of the Board of Supervisors, as elected officials, are directly accountable to the taxpayers of the City and County of San Francisco.

- Submit a Charter amendment requiring that the City's contribution rate to the Employees' Retirement Trust Fund be subject to the approval of the Mayor and the Board of Supervisors. This Charter Amendment should require that:

  - The Retirement Board provide an itemized justification for the rate setting to the Mayor and the Board of Supervisors.

  - This itemized justification be reviewed by the Controller to identify errors in rate setting and unnecessary or exaggerated administrative costs.

- All expenditures of the Employees' Retirement System, including expenditures incurred by its Investments Division, should be subject to appropriation by the Board of Supervisors.

- Eliminate two positions from the ERS budget in this current Fiscal Year 1992-93 and continue the deletion of these positions in future years. One of the positions eliminated should be an 1810 Actuarial Clerk, at an annual salary of $28,266 to $34,101, plus fringe benefits. The other position eliminated should be at the discretion of the Department. Including fringe benefits, this would result in an estimated savings of at least $211,995 over a three-year period.

- Request that the ERS consider such reduced expenditures in its calculation of the retirement contribution rates in future years because of this reduction in staffing.

The proper implementation of the recommendations contained in this report would:

- Assist in awarding contracts to the lowest, most qualified bidders, assist in ensuring that contractors perform the required work in a timely and thorough manner, and prevent unwarranted cost overruns. Since the Purchaser would be <u>authorized</u> to disapprove contracts, instead of being <u>required</u> to disapprove contracts, the Purchaser would have discretion to approve contracts in cases where standard selection criteria were not appropriate.

- Result in full disclosure and more complete review of all actions of the newly constituted Retirement Board because Members of the Board of Supervisors are elected officials and are therefore subject to scrutiny and approval by the San Francisco electorate.

- Provide the Mayor and the Board of Supervisors with an opportunity to identify errors in the retirement rate setting process and to deny any unnecessary or excessive administrative costs.

- Establish standard contractor selection and oversight procedures for purposes of assisting ERS and other City departments in order to ensure that contractors implement programs as efficiently as possible, and in order to ensure that independent confirmation of contractor hours is established. In this case, estimated savings of $360,963 could have been realized on the ERS contract awarded to TPF&C.

- Result in the avoidance of unnecessary cost. This report has disclosed total estimated unnecessary costs in excess of $2.0 million. Further, future decisions to disapprove requests for early retirement, when such requests are unjustified, could result in substantial additional savings to the City.

The complete written response of the Retirement System is attached, beginning on page 52 of this report. Regarding our finding that the decision by the Retirement Board to allow previously retired employees to rescind their retirements and retire again during the early retirement window resulted in an unjustified and unnecessary cost to the City of $1.5 million, and subverted the cost-saving intent of Proposition A since these positions could not be abolished by the Proposition A Committee, the Retirement System stated: "The [Retirement Board] members voting for the reinstatements reasoned that [Retirement System's employee] members had not received timely notice of Proposition A's provisions and consequently those members had a *legal* as well as *moral right* to the Proposition A benefits" (italics added).

The Budget Analyst totally disagrees and notes: (a) it was the stated opinion of the City Attorney's Office to the Retirement Board that <u>the Retirement Board had no legal obligation</u> to provide the early retirement benefits to previously retired individuals, since the Retirement System is only legally obligated to provide information about current conditions of retirement, not about possible future benefits; and (b) the Retirement Board is not in a position to decide what is a "moral right" and what is not a "moral right" in fulfilling its fiduciary responsibilities. We seriously question the Retirement Board making a decision, in part on moral grounds, which was in opposition to the intent of the provisions contained in a Charter Amendment approved by the electorate of San Francisco. This decision needlessly involved the expenditure of $1.5 million in Employee Retirement Trust Funds.

The Budget Analyst raises the following question: On what authority does a seven member Retirement Board make a moral decision on behalf of the voters of the City and County of San Francisco and employee members of the Retirement System?

The Retirement System further states in its response: "The recommendation that the Retirement Board be abolished and replaced by the President of the Board of Supervisors, three Board of Supervisor members and three employee representatives is inconsistent in that this report calls for the removal of the very trustees who voted against allowing 1991 retirees to receive Prop. A enhancements . . . Those voting in favor . . . include the three elected employee representatives and the President of the Board of Supervisors."

That statement is not responsive to the Budget Analyst's recommendation to submit a Charter Amendment to the electorate for the purpose of abolishing the existing composition of the Retirement Board. The Budget Analyst has made a structural recommendation regarding the organization of the Retirement Board, irrespective of

the individuals involved. The intent of the Budget Analyst's recommendation is that authority pertaining to a $5.2 billion Retirement Trust Fund should be assumed by elected officials who are directly accountable to the taxpayers as well as to the employee members of the Retirement System. Elected officials can be removed from office if their decisions are not in the best interests of the taxpayers. The broad authority of the Retirement Board should not be vested in non-elected appointees who are making decisions affecting millions of dollars of taxpayers' and funds, with limited public scrutiny and limited independent oversight.

The Retirement Board further states: "The conclusion drawn by the Budget Analyst could not consider the elements of closed session discussion and advice." This is precisely our point. Under the present organizational structure of the City, the Board of Supervisors has very limited knowledge as to the management and fiscal decisions affecting the Retirement System's $5.2 billion Trust Fund, and the related expenditures of millions of dollars of taxpayers' monies, even though it is the Board of Supervisors which has the responsibility to submit Charter Amendments to the electorate. If four Members of the Board of Supervisors, including the President of the Board of Supervisors, were placed on the Retirement Board, as is recommended by the Budget Analyst, then Members of the Board of Supervisors would gain a thorough understanding as to precisely what is transpiring with respect to the million dollar decisions affecting the City's Retirement System.

The Retirement System states: "Over 200 years of trust law mandate the independence of trustees in the exercise of their fiduciary responsibilities." This statement is not responsive to the Budget Analyst's recommendations, unless the Retirement Board intends to imply that it would violate trust law if the Board of Supervisors assumed the role of retirement trustees.

We have annotated the Retirement System's written response with additional comments on specific points.

In summary, we find no reason whatsoever to alter our findings, conclusions and recommendations as a result of the Retirement System's written response to our report.

<u>BOARD OF SUPERVISORS</u>
BUDGET ANALYST

Throughout the course of this management audit, we received the full cooperation of the Retirement Board, the Retirement System General Manager and her staff as well as cooperation from TPF&C, the outside consultant.

Respectfully submitted,

Harvey M. Rose
Budget Analyst

cc: President Shelley
Supervisor Achtenberg
Supervisor Alioto
Supervisor Britt
Supervisor Conroy
Supervisor Gonzalez
Supervisor Hallinan
Supervisor Kennedy
Supervisor Maher
Supervisor Migden
Mayor Jordan
Clerk of the Board
Chief Administrative Officer
Controller
Kent Sims
Jean Mariani
Barbara Kolesar
Ted Lakey
Clare Murphy
Members of the Retirement Board

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INTRODUCTION

Background

At the direction of the San Francisco Board of Supervisors, the Budget Analyst has conducted a review of the management of the San Francisco Employees' Retirement System's (ERS) implementation of Proposition A, known as the "Early Retirement Program." As directed by the Board of Supervisors, the Budget Analyst's study concentrated solely on the implementation of the Early Retirement Program. The scope of the Budget Analyst's study included:

- A review of the selection and administrative oversight of the contractor retained by ERS;
- An identification of funding sources for the administration of the Early Retirement Program and reasons for cost overruns;
- A review of services provided to employees for the Early Retirement Program.

Study Methodology

Our study included interviews with ERS and other City staff, Retirement Board members, and contractor personnel having responsibility for the Early Retirement Program.

We reviewed Proposition A, the Charter amendment creating the Early Retirement Program; ERS' Request for Proposal and the proposals submitted by the six bidders for the contract; the contract and all contract amendments between ERS and the contractor, Towers, Perrin, Forster and Crosby (TPF&C); the contractor's hourly rates; assignment and scheduling of employee interviews; contractor timekeeping records; transcripts from Retirement Board meeting minutes; all information prepared for employees eligible for the Early Retirement Program; Controller's reports; personnel files; ERS annual reports; ERS and Early Retirement Program budget information; training materials and other communications prepared by ERS and the contractor for Early Retirement Program personnel; and the computer program prepared by the contractor.

In addition, we conducted a survey of 91 City employees who retired early under the Early Retirement Program and ten City employees who, although they were eligible, decided not to retire under the Early Retirement Program. These surveys included prior retirement eligibility and contact with ERS, evaluations of information disseminated by ERS, and an evaluation of interviews and confirmation of the duration of the interviews. Field work was conducted over a seven month period, from January 1992 to July 1992. Upon completion of the draft report, an exit conference was held with ERS staff regarding report content. The ERS written response to this report is attached, beginning on page 46.

History and Background of the Early Retirement Program

Creation, Intent and Outcome of the Early Retirement Program

In November 1991, the San Francisco voters approved a proposition that offered City, San Francisco Unified School District and Community College District employees incentives to retire early (Proposition A). According to Proposition A, eligible employees who retired between February 1, 1992 and March 31, 1992 would receive retirement benefits as if they were three years older and had worked for the City three additional years. Thus, a 57 year old employee who had worked for the City for 27 years was eligible during that time frame to receive retirement benefits as if he or she were 60 years old and had worked for the City for 30 years. A total of approximately 1,336 City employees and 416 San Francisco Unified School District and Community College District employees retired under the Early Retirement Program, for a total of 1,752 employees.

Proposition A was intended as a cost saving effort. Proposition A required that at least 500 or fifty percent of the vacated non-mandated positions, whichever was larger, were to be abolished by the Mayor in the Fiscal Year 1991-92 budget. A three-member Proposition A Committee, consisting of the Controller, the Mayor's Director of Finance, and the General Manager of Civil Service, as well as two non-voting labor representatives, was established to determine which retiring positions should be filled. Of the 1,336 City employees who retired, 836 positions, or 62.6 percent of the vacated positions, were authorized not to be eliminated by the Proposition A Committee. The remaining 500 positions were abolished.

Of the 500 positions eliminated by the Proposition A Committee, 35 positions were restored by the Mayor's Office in the FY 1992-93 budget with approval of a two-thirds vote of the Board of Supervisors, at an annual cost of $1,713,046 plus fringe benefits, estimated at 25 percent, or $428,262, for a total estimated cost of $2,141,308. Thus, a total of 465 positions were abolished as a result of Proposition A (500 positions abolished by the Proposition A Committee less 35 positions restored in 1992-93 budget) at an estimated net savings for FY 1992-93 of $25,000,000 (assuming an average salary plus fringe benefits of $50,000 annually for 500 positions), less $2,141,308 for the 35 positions which were restored, for a total savings from the 465 abolished positions of $22,858,692.[1] In addition to the savings from position cuts, salary savings would accrue from any of the 836 positions that were authorized to be filled by the Proposition A Committee but were not immediately filled.

The annual cost for additional pension benefits for the 1,336 City employees who retired under the Early Retirement Program is estimated to be $4.5 million, and the administrative cost for implementing the Early Retirement Program was $3,306,867. An additional cost of $3 million was also incurred to fill immediately

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[1] Although the Mayor advises that 62 miscellaneous positions were eliminated to compensate for the restoration of 31 Proposition A positions, those 62 positions were not eliminated through any process relating to Proposition A, and therefore those position cuts have not been included in this savings estimate.

critical positions vacated through early retirement. Thus, the net one year savings from Proposition A is estimated to be $12,051,825, or $22,858,692 in savings from the abolished positions ($25 million less $2,141,308 for 35 restored positions less $3 million to backfill critical positions), less $4.5 million for the cost of the additional benefits, less $3,306,867 for Early Retirement Program implementation, as reflected below:

Costs and Savings from Proposition A

Activity		Net Savings to the City
500 positions abolished, including fringe benefits		$25,000,000
Less: 35 positions restored, including fringe benefits estimated at 25 percent	$2,141,308	
Less: immediate backfill of critical positions	3,000,000	
Implementation of Early Retirement Program (cost incurred FY 1991-92)	3,306,867	
Estimated FY 1992-93 cost of increased Benefits for 1,336 City Retirees	4,500,000	
Total Costs		$12,948,175
FY 1992-93 NET SAVINGS FROM PROPOSITION A		$12,051,825

Early Retirement Program Costs

On November 2, 1991, the Board of Supervisors approved a Supplemental Appropriation Ordinance appropriating $1,573,103, including $1,360,288 for the professional services contract with Towers, Perrin, Crosby & Forster (TPF&C), for the Employees' Retirement System (ERS) to implement the Early Retirement Program, pursuant to the provisions of Proposition A (File 101-91-18). At that time, the Board of Supervisors released $185,000 prior to the outcome of the November 5, 1991 election to allow ERS to begin preliminary work in the event that Proposition A was approved, and reserved $1,388,103 pending the outcome of the election. On November 5, 1991, Proposition A was approved, and on November 6, 1991, the Finance Committee of the Board of Supervisors released the reserved $1,388,103 to implement the entire Early Retirement Program.

However, ERS was unable to implement the entire Early Retirement Program with the original $1,573,103 appropriation as planned. On January 27, 1992, the Board of Supervisors, at the request of ERS, approved a second Supplemental Appropriation Ordinance for an additional $1,733,764, including an additional $1,688,764 for the professional services contract with TPF&C, to complete implementation of the Early Retirement Program (File 101-91-42), resulting in a total cost of $3,306,867. Funding for the Early Retirement Program was provided entirely from the Employees Retirement Trust Fund. However, the Employees Retirement Trust Fund is funded by a combination of investment returns and City contributions. Of the total City contributions, approximately 81 percent is financed from the City's General Fund.

The budget for the Early Retirement Program administration, including the first and second supplemental appropriation requests, totalled $3,306,867. The contractual services budget for the Early Retirement Program totalled $3,049,052. A detailed project budget and contractual services budget is included at the end of this Introduction.

Although a total of $3,049,052 ($1,360,288 in the first supplemental appropriation ordinance and $1,688,764 in the second supplemental appropriation ordinance) was appropriated for Contractual Services, TPF&C billed the Retirement System $3,118,860 through March 15, 1992, or $69,808 above the amount authorized to be expended. These greater charges were incurred because TPF&C provided more hours for the Early Retirement Program than anticipated when the second Supplemental Appropriation was approved. The February 26, 1992 amendment to the contract with TPF&C states: "In no event shall payments under this Agreement exceed $3,049,052 for all of the services described." Therefore, TPF&C will be paid a maximum of $3,049,052.

Description of the Contractor

TPF&C, a division of Towers Perrin, is an international organization of management consultants and actuaries specializing in pay and benefits. TPF&C provides actuarial, communication, and human resource consulting services. According to TPF&C's proposal, the firm's worldwide actuarial practice specializes in helping employers to manage the financial aspects of their pension and other employee benefit plans.

Towers Perrin has offices in 61 locations in the United States, Canada, Latin America, Europe, Australia and the Far East. The San Francisco office was established in 1959. The San Francisco office serves Northern California, Nevada and Hawaii.

Accomplishments

According to the Retirement System General Manager, ERS' primary goal in implementing the Early Retirement Program was to provide clear, accurate and complete information to every City employee eligible to retire under the Early Retirement Program, in order that (1) City employees would have the information necessary to make the best retirement decision; and (2) no employee interested in early retirement be overlooked and therefore not retire, resulting in a loss of savings to, and possible lawsuits against, the City.

The Retirement System provided the following data to employees eligible to retire:

(1) a "Hotline" which provided recorded information about the Early Retirement Program by telephone, and later scheduled group interviews and individual interviews;

(2) an informational flier, which was sent to City departments and personnel offices for distribution or posting, briefly describing the Early Retirement Program and stating that information would be mailed to any employee who might be eligible;

(3) a letter describing the Early Retirement Program, which included the Hotline number, was mailed to potentially eligible employees;

(4) an information packet, describing in greater detail the Early Retirement Program, retirement benefits, pension options, and including an estimate of the employee's pension with and without the three added years of age and service. The information packet also urged eligible employees to attend a group informational meeting and to have an individual interview;

(5) a group informational meeting, where ERS staff presented general information to groups of a minimum of 50 eligible employees and their guests; a total of over 2,450 employees and their guests attended group meetings; most meetings averaged 75 participants, ERS advises, with meeting size ranging from 25 participants at Hetch Hetchy to 175 participants for School District employees;

(6) an individual meeting, where ERS or contractor staff met with the eligible employee to go over the individual employee's benefits, to allow the employee an opportunity to ask additional questions, to provide a second estimate stating what an employee's pension would be if he or she retired effective February 1, 1992, and to allow the employee to submit the paperwork necessary to retire.

Benefits calculations were completed for approximately 6,400 eligible City, School District and Community College District employees, all of the eligible employees were provided written information and approximately 3,500 received in-person interviews as well. In a typical year, without an early retirement program, 500 such calculations and meetings would take place.

Overall, eligible City employees reported that they were very satisfied with the implementation of the Early Retirement Program. Many City employees report that ERS staff were knowledgeable and polite, that written materials were clear and thorough, and that the decision to retire or not to retire was made with sufficient information. Of a total of approximately 1,336 City employees who decided to retire, only five persons, or approximately ¼ percent, later decided to rescind their retirements and return to work. The small number of rescinded retirements indicates that eligible employees who decided to retire were satisfied with their decision.

Many of the efforts of ERS and the contractor will have lasting benefit to the City, in that research and pension estimates as of February 1, 1992 have been completed for every employee who was eligible for early retirement under the Early Retirement Program. Since every employee over the age of 47 and/or with 17 years of service was eligible for early retirement, or 6,400 employees, the demand for research and pension estimates in future years will be significantly reduced. (However, no reduction in staff costs has resulted; see Section 5 of this report for more detail.)

The voters approved early retirement in the November 1992 election, and the early retirement window began February 1, 1992. Thus, the entire preparation period, during which general information was prepared and distributed, pension benefits were researched and estimated, and group and individual interviews were begun, included less than three months.

Despite ERS' accomplishments, the Budget Analyst has identified serious deficiencies on the part of ERS in the implementation of the Early Retirement Program. These deficiencies include the bidding process, and contract execution and oversight. The Budget Analyst has further identified areas in which the program could have been implemented at a lower cost without jeopardizing service to the employees, including written information, benefits calculations, interviews, and retroactive eligibility.

Acknowledgments

The Retirement Board, the ERS staff and TPF&C management and staff assisted our efforts in this study and provided the information to conduct our analysis. We wish to acknowledge especially the assistance of Clare Murphy, Rudy Hernandez, Maria Newport and Kieran Murphy of ERS, and Ronald Mester of TPF&C.

Budget for Early Retirement Program

Retirement System Personnel		
Overtime Salaries	$90,000	
Temporary Salaries	78,065	
Fringe Benefits	22,750	
Personnel Total		$190,815
Materials and Supplies		
Postage	4,000	
Office Supplies	3,000	
Materials and Supplies Total		7,000
Data Processing	35,000	
City Attorney's Services		25,000
Contractual Services (see detail following)		3,049,052
Total Appropriation Request		$3,306,867

Contractual Services Budget Detail

Operating Expenses		
Telephone System	$39,000	
Telephone (for new space & added use)	2,500	
Space and Equipment Rentals	45,000	
Total Operating Expenses		$86,500
Materials and Supplies		
Office Supplies	15,000	
Film readers, Fiche Readers	18,500	
Copy Machine	750	
Total Materials and Supplies		34,250
Initial Planning/Design (determining eligibility criteria, extracting eligible members, determining sources and uses of data, establishing procedures)		$30,000

<u>Service Calculations and Processing</u>		
Calculations and Data Collection for 6,400 employees ($47/hr x 19,261 hrs.)	$905,288	
Processing Final Calculations	264,400	
Furniture	3,100	
Leased Space	5,550	
Hardware and Software Purchase	84,114	
Programming	69,200	
Supervision for Data Processing Staff ($220 per hour x 50 hours/week x 6 weeks for $66,000; $220 x 40 hours per week x 17 weeks for $149,600)	215,600	
Total Service Calculations		1,547,252
<u>Written Communications</u>		
Preliminary Letter to 5,500 employees	7,000	
Phone System	30,000	
Information Kit to 5,500 (cover letter, personalized info., summary plan description, fact sheet, instructions, waiver form, return envelope, resource directory, misc. tax and other forms)	107,000	
Revising ERS Forms	8,700	
Bulletin	5,500	
Coordination & Secretarial Support (115 hours @ approximately $143/hour)	16,500	
Election Materials	15,000	
Communications Total		189,700
<u>In-Person Interviews</u>		
Individual Meetings (3,500 meetings; 1.5 hours each)	615,300	
Groups Meetings for eligible employees	32,000	
Leased Space	20,750	
Furniture	19,500	
Total In-Person Interviews		687,550
<u>System Support</u> (database set-up and implementation; merge w/ payment system and ERS' regular database)		147,000
<u>Actuarial/Accounting</u>		$10,000
<u>Project Management</u> (40 hours/wk x 24 wks x $330 per hour)		316,800
Contractual Services Total		$3,049,052

Section 1: Bidding and Contract Oversight

- IN THE JUDGEMENT OF THE BUDGET ANALYST, THE CONTRACTOR SELECTION PROCESS WAS HIGHLY QUESTIONABLE AND RESULTED IN EXCESSIVE COSTS TO THE CITY, SINCE NO DOCUMENTED SELECTION CRITERIA WAS ESTABLISHED BY ERS.

- ERS AWARDED A CONTRACT TO TPF&C TO RETAIN ASSISTANCE IN THE IMPLEMENTATION OF THE CITY'S EARLY RETIREMENT PROGRAM. THIS CONTRACT WAS CONTRARY TO THE BEST INTERESTS OF THE CITY, IN THAT:

  – THE CONTRACT CONTAINED NO COST LIMITS OR GUARANTEED LEVELS OF SERVICE, ALTHOUGH ERS STAFF SPECIFICALLY STATED TO THE RETIREMENT BOARD THAT SUCH COST LIMITS WOULD BE INCLUDED IN THE CONTRACT;

  - ERS SELECTED A CONTRACTOR, TPF&C, WHOSE HOURLY RATES, RANGING FROM $47 PER HOUR FOR CLERICAL SUPPORT TO $375 PER HOUR FOR PARTNERS, WERE HIGHER THAN ANY OF THE OTHER BIDDERS THAT GAVE HOURLY RATES;

  – ERS DID NOT INCLUDE A STATEMENT IN ITS RFP THAT PREFERENCE WOULD BE GIVEN TO BIDDERS WITH MBE/WBE PARTICIPATION, AND IT DOES NOT APPEAR THAT ANY PREFERENCE FOR MBE/WBE PARTICIPATION WAS USED IN THE SELECTION PROCESS; ERS SELECTED A CONTRACTOR THAT DID NOT INCLUDE ANY MBE/WBE SUBCONTRACTOR PARTICIPATION IN ITS ORIGINAL BID, ALTHOUGH TWO OF THE OTHER BIDDERS INCLUDED MBE/WBE SUBCONTRACTOR PARTICIPATION;

  – ERS DID NOT INCLUDE ADEQUATE OVERSIGHT PROVISIONS IN THE CONTRACT WITH TPF&C, DESPITE ASSURANCES TO THE RETIREMENT BOARD THAT THEY WOULD DO SO;

  – ALTHOUGH ERS ADVISED THE BUDGET ANALYST THAT TPF&C WAS THE ONLY BIDDER WHO AGREED TO WORK WITHIN THE CITY'S BUDGET OF $1,360,288 FOR CONTRACTUAL SERVICES, ERS DID NOT MAKE INQUIRIES TO ALL OF THE OTHER BIDDERS TO DETERMINE IF THEY WOULD ALSO BE AGREEABLE TO WORKING WITHIN THE CITY'S BUDGET. IN FACT,

ONE OF THE OTHER BIDDERS HAD ALSO STATED THAT THEY WOULD WORK WITHIN THE CITY'S BUDGET;

- AS A RESULT, THE FINALLY AUTHORIZED CONTRACT COST FOR THE SERVICES OF TPF&C OF $3,049,052 EXCEEDED THE ORIGINAL AUTHORIZED CONTRACT COST OF $1,360,288 BY $1,688,764, OR MORE THAN 124 PERCENT.

- IN TESTIMONY TO THE RETIREMENT BOARD ON OCTOBER 8, 1991, ERS STAFF STATED THAT THEY WOULD MEET WITH TPF&C TO DRAW UP A CONTRACT, WHICH, ACCORDING TO THE GENERAL MANAGER OF ERS, "WOULD DETAIL WHAT THEY WILL GIVE US, WHAT THEY WILL CHARGE US, WITH CERTAIN CAPS ON THE COST." HOWEVER, ERS FAILED TO DRAW UP SUCH A CONTRACT. THE CONTRACT WHICH WAS DRAWN UP DID NOT DETAIL SPECIFIED LEVELS OF SERVICE FOR THE CONTRACTOR, DID NOT FIX FEES, AND DID NOT LIMIT COSTS.

- COSTS COULD HAVE BEEN CONTROLLED IF ERS HAD ESTABLISHED ADEQUATE CONTRACTOR OVERSIGHT PROCEDURES. HOWEVER, ERS MADE NO INDEPENDENT CONFIRMATION OF CONTRACTOR HOURS WHICH WERE BILLED TO THE CITY, AND ERS NEVER REQUESTED ANY SOURCE TIME RECORDS FROM THE CONTRACTOR.

- CONTRACTOR COSTS WERE INCURRED BEFORE AN APPROPRIATION WAS APPROVED BY THE BOARD OF SUPERVISORS.

- AS DOCUMENTED ON PAGE 20 OF THIS REPORT BASED ON AN EXCERPT FROM A TRANSCRIPT OF THE DECEMBER 10, 1991 RETIREMENT BOARD MEETING, ERS STAFF AND THE VICE PRESIDENT OF THE RETIREMENT BOARD BLAMED THE MAYOR AND THE BOARD OF SUPERVISORS FOR THE COST OVERRUNS. THE VICE PRESIDENT OF THE RETIREMENT BOARD STATED THE PROBLEM WAS THE "PROCASTINATION OF THE BOARD OF SUPERVISORS." THE DEPUTY GENERAL MANAGER STATED THAT FASTER ACTION BY THE BOARD OF SUPERVISORS WOULD HAVE ALLOWED ERS TO BEGIN THE PROGRAM A MONTH AND A HALF EARLIER. IN FACT, THE BOARD OF SUPERVISORS

RESPONDED VERY QUICKLY TO THE RETIREMENT BOARD'S REQUEST: THE BOARD OF SUPERVISORS FINANCE COMMITTEE APPROVED A SUPPLEMENTAL APPROPRIATION AND THE RELEASE OF FUNDS TO THE RETIREMENT BOARD ONLY ONE WEEK AFTER THE RETIREMENT BOARD HAD SELECTED A CONTRACTOR.

IT IS POSSIBLE THAT IF ERS HAD MORE TIME TO PREPARE FOR THE EARLY RETIREMENT PROGRAM, COSTS COULD HAVE BEEN MINIMIZED. HOWEVER, THE RUNAWAY COSTS OF THE ERS CONTRACTUAL SERVICES EXPENDITURES CANNOT BE BLAMED ON PROCRASTINATION ON THE PART OF THE BOARD OF SUPERVISORS.

- LEGISLATION PREVIOUSLY APPROVED BY THE BOARD OF SUPERVISORS, BASED ON THE BUDGET ANALYST'S FINDING THAT ERS HAD ENTERED INTO A CONTRACT CONTAINING NO LIMITS ON COSTS OR GUARANTEED LEVELS OF SERVICE, SHOULD PREVENT THE REPETITION OF SUCH OPEN-ENDED CONTRACTS. THIS LEGISLATION REQUIRES THAT FUTURE CONTRACTS SPECIFY COST LIMITS AND LEVELS OF SERVICE.

- CITY-WIDE WRITTEN CONTRACTOR SELECTION AND OVERSIGHT CRITERIA HAS BEEN ESTABLISHED BY THE PURCHASER FOR PERSONAL SERVICES CONTRACTS. HOWEVER, THE PURCHASER DOES NOT HAVE THE AUTHORITY TO REQUIRE THAT DEPARTMENTS CONFORM TO THESE CRITERIA. THEREFORE, THE BOARD OF SUPERVISORS SHOULD ESTABLISH LEGISLATION REQUIRING THAT CITY DEPARTMENTS SELECT AND OVERSEE CONTRACTORS ACCORDING TO THE PURCHASER'S CRITERIA.

The Bidding

On September 12, 1991, in anticipation of the possible approval of Proposition A in the November 1991 election, ERS sent letters to approximately ten qualified firms inviting them to submit bids to implement the Early Retirement Program. The letter established no written criteria delineating how bids would be ranked or how the final selection would be made. The letter also did not state that preference would be given to firms with MBE/WBE subcontractor participation. ERS received six bids on the proposed project. The six bidders for the Proposition A contract originally submitted bids ranging from $1.27 million to $1.79 million, as follows:

Bidder	Total Original Bid
Coopers and Lybrand	$1,948,130
William M. Mercer, Inc.*	1,794,850
KPMG Peat Marwick	1,687,925
Towers, Perrin, Forster and Crosby (TPF&C)	1,659,318
C&B Consulting Group*	1,563,148
Milliman & Robertson, Inc.	1,266,300

*MBE/WBE subcontractor participation included in the bid amount

ERS' budget for contractual services for this project had a limit of $1.36 million. ERS selected TPF&C, whose total original bid of $1,659,318 (which was later reduced due to ERS' budget constraints of $1.36 million) was third lowest of the six bids. TPF&C was the bidder with the highest stated hourly rates, as follows:

- TPF&C's hourly rates ranged from $47 per hour for clerical support to $375 for partners; TPF&C advises that their average hourly rate for the entire project was approximately $76;

- Coopers and Lybrand hourly rates range from $35 for staff to $240 for partners.

- Milliman and Robertson's hourly rates ranged from $25 per hour for clerical support to $250 per hour for consulting actuaries;

- Peat Marwick did not provide hourly rates, but based on their costs and number of hours, the Budget Analyst estimates that the average hourly rate for the data collection and analysis portion of the project was $54, and $95 for the interview portion of the project.

- William M. Mercer, Inc. and C&B Consulting Group provided no specific information on hourly rates.

ERS advised the Budget Analyst in October 1991 that TPF&C was selected as the contractor for the Early Retirement Program because it was the only firm that agreed to stay within ERS' budget constraints of approximately $1.36 million or less for contractual services. However, as shown above, Milliman and Robertson, Inc. submitted an original bid which was within ERS' available budget. Furthermore, at least two bidders were never requested to work within ERS' approximate $1.36 million budget. One bidder advised the Budget Analyst that their joint venture was never contacted by ERS with a request to reduce the amount of their bid to fit within the City's budget. Another bidder advised that although ERS did contact them to discuss their bid at length, with a focus on corporate qualifications and experience, ERS did not request a modified bid that would fit within the City's budget.

Although the Retirement System General Manager stated to the Budget Analyst that TPF&C was selected because it was the only contractor that agreed to work within the City's budget, according to the testimony of the General Manager of ERS to the Retirement Board on October 8, 1991, the selection of TPF&C was based on several factors. Specifically, the General Manager stated that selection of TPF&C was based on the following:

(1) TPF&C had recent experience administering an early retirement program for the University of California system which was similar to the City's Early Retirement Program;

(2) TPF&C had an on-going contract with ERS for other services, and ERS staff believed that other benefits would accrue to ERS because TPF&C would remain its consulting actuary for some time; and

(3) After ERS requested that TPF&C submit an adjusted bid to fit within the City's contractual services budget, TPF&C submitted the lowest bid.

Although it may have been reasonable to select TPF&C based primarily on the company's corporate qualifications rather than costs, the Board of Supervisors approved the $1.57 million supplemental appropriation ordinance, including $1,360,288 for contractual services, with the understanding that (1) TPF&C had agreed to contain costs at $1,360,288; and (2) that TPF&C was the only firm which had agreed to stay within these budget constraints. In fact, TPF&C did not stay within the contract budget as originally approved by the Board of Supervisors, but exceeded their original adjusted bid price, with the approval of the Retirement Board, the Board of Supervisors and the Mayor through a second supplemental appropriation request. The amount for contractual services which was included in the original contract with TPF&C was $1,360,288, which was exceeded by $1,688,764 for a total contract cost of $3,049,052 or 124 percent more than the original adjusted bid.

Although TPF&C may have been the most appropriate contractor to implement the Early Retirement Program, the bidding process was questionable for the following reasons:

(1) No documented selection criteria was established and no statement as to how the selection would be made was included in the Request for Proposals (as noted above, the Retirement System General Manager stated to the Retirement Board that TPF&C was selected based on the amount of their bid, their recent experience, and their on-going relationship with ERS);

(2) TPF&C did not include any MBE/WBE contractor participation in its original bid, although two of the other bidders included MBE/WBE subcontractor participation, and it does not appear that any preference for MBE/WBE participation was used in the selection process; and

(3) Two of the original bidders' costs were less than TPF&C, not all of the contractors were requested to resubmit their bids based on ERS' budget constraints, and TPF&C's hourly rates are higher than all of the other bidders who specified hourly rates.

According to the General Manager of ERS, because of Proposition A's time constraints, ERS needed to select a contractor through an accelerated bid process. The General Manager advises that documented selection criteria, including MBE/WBE contractor preferences, are typically established by ERS. Furthermore, the General Manager states that a verbal statement regarding MBE/WBE preference was made at the bidders conference. No confirmation of this can be made, since no written record of the bidder's conference was established. The Budget Analyst notes that (1) it would not have taken longer to select a contractor had documented selection criteria been established, including MBE/WBE preference, and (2) as noted on page 19, the selection process could have been less accelerated, since ERS did not mail RFP's until over six weeks after Proposition A was approved for submission to the voters by the Board of Supervisors.

Contract Oversight

TPF&C was approved as the contractor by the Retirement Board on October 8, 1991, to assist the City in the implementation of its Early Retirement Program. The Board of Supervisors approved the initial supplemental appropriation of $1,360,288 for this contract on November 2, 1991. A contract was signed by the General Manager of ERS and the contractor, TPF&C on November 6, 1991. An amendment was made to the contract on February 26, 1992, based on the costs contained in a second supplemental appropriation ordinance approved by the Board of Supervisors on January 27, 1992. This amendment to the contract authorized that additional funds, not to exceed $1,688,764, be expended for contractual services resulting in total authorized contract costs of $3,049,052.

In testimony to the Retirement Board on October 8, 1991, ERS staff stated that they would meet with TPF&C to draw up a contract, which, according to the General Manager of ERS, "would detail what they will give us, what they will charge us, with certain caps on the cost." However, ERS failed to draw up such a contract. The contract which was drawn up did not detail specified levels of service for the contractor, did not fix fees, and did not limit costs.[1]

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[1]At the May 26, 1992 Retirement Board meeting, the General Manager of ERS stated that cost caps were never meant to be included in the original contract:
Commissioner Meiberger: "Why did not the original contract have a cap? I believe it was passed in front of the [Retirement] Board that caps were mentioned in that first contract."
Ms. Murphy: "That is not correct."

This absence of adequate contractual controls provides an incentive for a contractor to exaggerate the complexity and costs of a project and therefore earn higher fees. This does not imply that any contractor would purposefully spend more time or incur more costs than necessary. However, any contractor, by spending more time, would receive larger contract payments. To prevent departments from entering into this type of open-ended contract, on March 10, 1992, the Board of Supervisors approved an ordinance (Ordinance 74-92) making it a policy of the Board of Supervisors not to authorize funds for contracts that do not contain guaranteed levels of service and maximum costs, with appropriate exceptions.

Oversight of the contract with TPF&C, including the management and supervision of contractor performance as well as controls in the contract itself, should have been particularly stringent because of the open-ended contract, and because the project and the contract amount were so large. Typically, a service contract such as the contract between ERS and TPF&C would include specific oversight, such as periodic written or in-person progress reports, independent confirmation of hours and work performed, timelines, project goals and deliverables. These specific oversight procedures are generally included in the contract itself.

The original request for bids, mailed in September 1991, did not specify any reporting requirements to ERS. All of the bidders except TPF&C included in their proposals plans for reporting to ERS, or offered to develop such plans with ERS. For example, in their proposal to ERS for the early retirement program, C&B Consulting Group offered to develop with ERS a detailed management reporting process designed to meet ERS' information requirements, including, but not limited to, the overall progress of the project, the status of each individual with respect to the process, meeting and interview schedules, retirement statistics, cash flow analyses, and actuarial cost analyses.

According to the General Manager of ERS, ERS oversight of TPF&C consisted of the following:

- Continuous interaction with TPF&C in the implementation of the project. Senior staff worked alongside TPF&C, providing expertise and training to their staff in the various tasks required by the contract.

- ERS staff met regularly with and without TPF&C to assess their performance and to provide input and recommend alternative action.

- TPF&C's costs were reviewed two weeks prior to submission of their monthly billing.

In addition, TPF&C, at its own instigation and not at the request of ERS, established a timeline including project components and goals and submitted monthly and weekly reports measuring their progress against this timeline. Finally, TPF&C submitted interview schedules to ERS daily, and a list of individuals who had decided to retire to the Mayor on a weekly basis.

In our judgment, the oversight by ERS was entirely inadequate. ERS oversight should have, but did not, consisted of written oversight procedures including: an outline of authorized work; project objectives; project organization; organization of the project team; project schedule and milestones; and action steps and review points. ERS made no independent confirmation of contractor hours which were billed to the City, and ERS never requested any source time records from the contractor. That project oversight was inadequate is supported by the tremendous cost overruns billed to the City by the contractor. ERS states that it was unable to develop any workplan, since the Department was unable to anticipate the scope of the project in advance.

If appropriate oversight had been established and enforced, for example, ERS could have recognized immediately that contractor costs were being incurred much more quickly than anticipated, and could then have reevaluated the scope and complexity of the project. This reevaluation could have been completed before the original supplemental appropriation of $1.3 million for the contractor was expended. Instead, the Retirement System allowed the contractor to provide services at an exorbitant level, so that the original $1.3 million was exhausted by the end of December 1991, seven weeks after the project was approved. This left no funds authorized for the final three months of the project.

ERS states that the primary reason for these cost overruns is that the original RFP did not adequately describe the project's scope of work, since ERS did not have a detailed knowledge of what implementation of the Early Retirement Program would entail at the time it issued the RFP. The Budget Analyst notes that the Early Retirement Program consisted entirely of the work regularly performed by ERS on an accelerated basis.

The Board of Supervisors did not approv ERS' second supplemental appropriation request until mid-January 1992. Nevertheless, by mid-January 1992, ERS had already begun to incur costs against funds not yet appropriated by the Board of Supervisors. By mid-January 1992, it would have been difficult to terminate the contract with TPF&C because:

(a) Proposition A mandated that employees be allowed to retire early between February 1, 1992 and March 30, 1992;

(b) There was insufficient time to select and train another contractor before the beginning of the early retirement window; and

(c) The contractor had special knowledge of the program by that time.

ERS Compliance with Purchaser's Selection and Oversight Criteria

The Purchaser has established suggested City-wide written criteria for selecting and overseeing personal services contracts. As part of these criteria, the Purchaser suggests that the Request for Proposals (RFP) include "a clear description of the evaluation criteria and a pre-determined point system for scoring the RFP and oral interviews." The Purchaser suggests that departments prepare a proposal evaluation document describing evaluation criteria and weighting factors, including:

- Minority and Women Business Enterprises;
- The bidder's understanding of the problem;
- The bidder's technical responsiveness;
- Project organization;
- The work plan;
- Staff capabilities and experience;
- Company capabilities and experience;
- Time and cost;
- Department responsibilities; and
- Other pertinent information.

Points are awarded based on bidders' responses to each of the criteria, and the bidder with the highest points would be awarded the contract. If a department deviates from the original written criteria provided in the request for proposal, a written amendment to the request for proposal should be provided to all the bidders. As previously noted, ERS did not establish any written criteria for evaluating the RFPs or interviews with the bidders or follow any of these Purchasing Department procedures.

The Purchaser's criteria recommend that departments document the reasons for the final selection of the contractor, because this information is public record. According to the Purchaser, the following events and actions should be documented in the contract file:

- Bidder's conference;
- Questions raised and answers provided;
- Evaluation of proposals;
- Oral interviews;

- Communication with contractor's references; and

- Selection panel deliberations.

Although ERS did hold a bidder's conference, ERS did not document what occurred at the conference or any of the above criteria, as recommended by the Purchaser's criteria. As noted above, the Retirement System General Manager states that ERS typically conforms with the Purchaser's criteria in selecting contractors, but was unable to do so because of the accelerated selection process.

The Purchaser has also established criteria for contractor oversight, which are suggested to be included in personal services contracts. According to the Purchaser's criteria, personal services contracts should include:

- *A Statement of Work*
  This section details the scope of the project, such as an outline of authorized work; project objectives, project organization; organization of the project team; project schedule and milestones; deliverables; action steps and review points; and Department participation.

- *Period of Performance*
  This section details the start and completion dates of the project.

- *Compensation*
  The fee schedule should include maximum contract costs; rates for services (usually hourly rates); a detailed list of other charges; and payment procedures. Billings should include a detailed breakdown of charges and be supported with statements of the work completed, according to the Purchaser's guidelines.

- *Management*
  The contract should identify, by name or position, the persons responsible for representing the Department and the consultant during contract performance.

- *Reporting*
  Specifically, the Purchaser's guidelines state: All reporting requirements (i.e., progress, interim, final or special) should be included in the contract. Formal written reports may be required monthly but probably no less often than quarterly. Oral presentations could be scheduled more often, perhaps weekly or monthly. The consultant should submit a comprehensive final report of project finding and recommendations (or other appropriate work product). All products and reports resulting from the contract will be the sole property of the City.

- *Insurance*
  Insurance should be established based on consultation with the Risk Manager.

The contract with TPF&C did not include a Statement of Work; a Period of Performance; Compensation; or Reporting.

Although the Purchaser has established these selection and oversight criteria, Departments are not required to select contracts according to these criteria, nor are they required to include these oversight procedures in their personal services contracts. To ensure that the most qualified, lowest cost personal services contractors are selected, and that personal services contracts are established with adequate oversight procedures, the Board of Supervisors should establish legislation requiring that contract selection and oversight procedures are included in all personal services contracts. Such legislation should further authorize the Purchaser to disapprove contracts where the selection process and oversight conditions do not meet such criteria.

In some instances, it may be difficult for departments to follow the criteria established by the Purchaser. For example, sole source contractors, in cases where only one organization provides a service, would not need to be selected according to the above selection criteria. However, departments must clearly document and satisfy specific conditions for meeting separate "sole source" criteria. Therefore, we recommend that the Purchaser be <u>authorized</u> to disapprove contracts in cases where the contractor is not selected using these criteria, instead of <u>required</u> to disapprove contracts, in order to allow the Purchaser some discretion to approve contracts in cases where standard selection and oversight criteria cannot be met. Since the Purchaser would be empowered to disapprove contracts, instead of required to disapprove contracts, the Purchaser would have some discretion to approve contracts in cases where standard oversight procedures are not adequate.

Responsibility for Cost Overruns

ERS requested approval from the Retirement Board at its December 10, 1991 meeting, for a second supplemental appropriation of $1.7 million, including $1,688,764 for TPF&C, because it was apparent that the entire $1,360,288 originally allocated for contractual services would be expended by the end of December 1991 if TPF&C continued to provide the same accelerated level of services. Allowing for a $172,325 appropriation expended prior to the November 6, 1991 meeting, the contractor had been charging ERS at an average rate of $148,495 per week over an 8 week period. According to the original project budget, the average per week cost should have been $57,949 over a period of approximately 20.5 weeks. Thus, the contractor was charging the City at a rate of over 2.5 times their original estimate.

At the December 10, 1991 Retirement Board Meeting, the ERS Deputy General Manager explicitly stated that a reason for this enormous cost overrun was procrastination on the part of the Board of Supervisors and the Mayor in releasing funds to begin preparation for the program. The following is an excerpt from a transcript of that December 10, 1991 Retirement Board meeting:

> Deputy General Manager: . . . Had the Board of Supervisors and the Mayor approved our supplemental appropriation immediately and we could have started a month and a half earlier, the cost would have been a lot less. But they didn't. They waited until the last moment. Then they only gave us about $150,000 just to begin the process of the telephones and few memorandums and then said, after it passes, we'll give you the money.
>
> Vice President of the Retirement Board: . . . [P]rocrastination of the Board of Supervisors in adequately providing for tooling up has now put an additional premium on the actual cost of rendering the services we're legally obligated to render to the 6,400 people.

In fact, the sequence of events at that time was as follows:

(1) On July 31, 1991, the Board of Supervisors approved Proposition A for the November, 1991 ballot;

(2) Requests for Proposals were mailed by ERS on September 12, 1991;

(3) The Retirement Board approved TPF&C as the contractor to implement Proposition A on October 8, 1991;

(4) On October 16, 1991, one week after the Retirement Board approved the contract with TPF&C, the Board of Supervisors Finance Committee approved a release of $185,000, including $172,325 in contractual services, to begin preliminary work before the November 6, 1991 election (an amount that was not fully expended before the election, implying that the $185,000 released by the Finance Committee of the Board of Supervisors was more than adequate for the preliminary work)[2];

(5) That same day, October 16, 1991, TPF&C began work on the contract;

(6) On November 6, 1991, the Finance Committee of the Board of Supervisors released $1,388,103 for the Early Retirement Program administration, including $1,187,963 in contractual services.

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[2]It should be noted that an expenditure of funds was appropriated for a program that would not be needed if the ballot proposition were not approved.

Based on this series of events, implementation could only have started earlier if RFPs had been issued by ERS in early August rather than mid-September. The Board of Supervisors would only have released funds earlier if a contractor had been selected and the Retirement Board had requested funds to implement Proposition A at an earlier date.

Conclusions

On September 12, 1991, in anticipation of the possible approval of Proposition A in the November 1991 election, ERS sent letters to approximately ten qualified firms inviting them to submit bids to implement the Early Retirement Program. The letter established no written criteria delineating how bids would be ranked and the final selection made.

ERS advised that the selection of the contractor, Towers, Perrin, Forster and Crosby, Inc. (TPF&C), was partially based on TPF&C's low adjusted bid, although in fact, TPF&C's original bid was the third highest of the five bids received, and its hourly rates were the highest of all of the bidders that provided hourly rates.

Furthermore, the selection process was highly questionable because no documented selection criteria was established; TPF&C did not include MBE/WBE subcontractor participation; and not all of the contractors were requested to resubmit their bids based on ERS' budget constraints. Also, although the Budget Analyst acknowledges that it is entirely appropriate to select a contractor for reasons other than cost, ERS stated to the Budget Analyst that cost was <u>the</u> major factor in selecting TPF&C, even though two of the original bidders' costs were less than TPF&C; and TPF&C's hourly rates were higher than all of the other bidders who specified hourly rates.

ERS' contract oversight procedures were inadequate. Because of such inadequate contract oversight: (1) TPF&C expended the entire amount approved for the contract, which was intended to support the entire Early Retirement Program over a period of five months, in less than eight weeks after Proposition A was approved; and (2) costs were incurred against a second supplemental appropriation before such an appropriation was approved by the Board of Supervisors.

The Purchaser has established written personal services contract selection and oversight criteria, which are currently not being used throughout the City.

ERS staff and Retirement System Board, instead of accepting responsibility for the lack of contract oversight, blamed the cost overruns on delays and "procrastination" on the part of the Mayor and the Board of Supervisors in approving the first supplemental appropriation. In fact, the Board of Supervisors acted very quickly in regard to the Early Retirement Program. The Finance Committee of the Board of Supervisors approved the first supplemental appropriation request only one week after ERS had selected TPF&C as the contractor.

Recommendations

The Board of Supervisors should:

1.1 Adopt legislation requiring that all City Departments conform to the standard criteria already established by the Purchaser for the selection and oversight of personal services contracts.

1.2 Authorize the Purchaser to disapprove contracts which are not selected using the standard criteria.

Costs and Benefits

Implementation of these recommendations would incur no costs to the City.

Standard City-wide selection and oversight criteria would assist in awarding contracts to the lowest, most qualified bidders, would assist in ensuring that contractors perform the promised work in a timely and thorough manner, and should prevent unwarranted cost overruns. Since the Purchaser would be <u>authorized</u> to disapprove contracts, instead of <u>required</u> to disapprove contracts, the Purchaser would have some discretion to approve contracts in cases where standard selection criteria are not appropriate.

Section 2: Benefits Offer to Previously Retired Individuals

- THE RETIREMENT BOARD DECIDED TO ALLOW 124 CITY AND SFUSD EMPLOYEES WHO HAD RETIRED EFFECTIVE SEPTEMBER 1, 1991 TO RESCIND THEIR RETIREMENTS, REPAY THEIR PREVIOUSLY CASHED PENSION WARRANTS, AND RETIRE AGAIN DURING THE EARLY RETIREMENT WINDOW, EVEN THOUGH PROPOSITION A STATED THAT "THIS EARLY RETIREMENT INCENTIVE SHALL APPLY ONLY TO MEMBERS WHO RETIRE FROM SERVICE WITH AN EFFECTIVE DATE OF RETIREMENT ON OR AFTER FEBRUARY 1, 1992." OF THE 124 EMPLOYEES GIVEN THIS OPPORTUNITY, 45 ACCEPTED THE EARLY RETIREMENT BENEFIT. THIS DECISION WAS CLEARLY NOT IN THE BEST INTERESTS OF THE TAXPAYERS OF THE CITY AND COUNTY OF SAN FRANCISCO.

- AN UNNECESSARY COST TO THE CITY WAS INCURRED BY THE RETIREMENT BOARD'S DECISION. THIS UNNECESSARY COST IS ESTIMATED AT $1.5 MILLION.

- THE RETIREMENT BOARD'S DECISION MAY HAVE SET A PRECEDENT ALLOWING INDIVIDUALS TO RESCIND THEIR RETIREMENTS.

- THE TIMING OF THE RETIREMENT BOARD'S DECISION WAS INEQUITABLE, SINCE EMPLOYEES WHO RETIRED SEPTEMBER 1, 1991, WERE GIVEN ONLY UP TO THREE WORKING DAYS TO RESCIND THEIR PREVIOUS RETIREMENTS, REPAY PREVIOUS PENSION BENEFITS, AND REDO THEIR RETIREMENTS DURING THE EARLY RETIREMENT WINDOW.

- SINCE THE POSITIONS OF THOSE INDIVIDUALS WHO ORIGINALLY RETIRED SEPTEMBER 1, 1991 UNDER THE REGULAR RETIREMENT PROCESS WERE NOT REQUIRED TO BE ABOLISHED UNDER THE MANDATES OF PROPOSITION A, NO HIRING FREEZE FOR THOSE POSITIONS WAS IN PLACE. THEREFORE, THESE POSITIONS COULD NOT BE ELIMINATED BY THE PROPOSITION A COMMITTEE AFTER THE ORIGINAL RETIREMENTS WERE RESCINDED AND THOSE INDIVIDUALS RETIRED AGAIN. SINCE PROPOSITION A WAS INTENDED AS A COST-SAVING MEASURE, WITH SAVINGS TO BE REALIZED THROUGH THE ABOLISHMENT OF POSITIONS, ALLOWING EARLY RETIREMENTS WITHOUT CONSIDERATION TO THE

ABOLISHMENT OF THESE POSITIONS SUBVERTED THE COST-SAVING INTENT OF PROPOSITION A.

- **THE COST TO THE CITY, THE POSSIBILITY OF PRECEDENCE SETTING, AND THE INEQUITABLE NATURE OF THE DECISION COULD HAVE BEEN AVOIDED IF THE RETIREMENT BOARD HAD DECIDED NOT TO ALLOW INDIVIDUALS TO RESCIND THEIR INITIAL RETIREMENTS AND THEN ALLOW THESE INDIVIDUALS TO RETIRE DURING THE EARLY RETIREMENT WINDOW.**

- **THE BOARD OF SUPERVISORS SHOULD SUBMIT A CHARTER AMENDMENT TO THE ELECTORATE FOR THE PURPOSE OF ABOLISHING THE RETIREMENT BOARD, WITH THE PRESIDENT OF THE BOARD OF SUPERVISORS, THREE MEMBERS OF THE BOARD OF SUPERVISORS, AND THREE EMPLOYEE REPRESENTATIVES ASSUMING THE ROLE OF THE RETIREMENT BOARD. DECISIONS AFFECTING MILLIONS OF DOLLARS OF TAXPAYERS' MONIES CONTAINED IN A $5.2 BILLION TRUST FUND SHOULD NOT BE LEFT IN THE HANDS OF NON-ELECTED OFFICIALS WITHOUT CLOSE REVIEW AND APPROVAL BY THE BOARD OF SUPERVISORS.**

On July 31, 1991, the Board of Supervisors approved a Charter Amendment to place Proposition A on the ballot. Thus, information that might impact individuals' retirement decisions became known to ERS on July 31, 1991. ERS mailed notices to prospective retirees making them aware of the implications of the proposed Proposition A in mid-September, 1991. Proposition A stated that any early retirements must occur between February 1, 1992 and March 30, 1992.

According to Section 3.670 of the Charter, the Retirement Board consists of three members appointed by the Mayor, three members elected from active members (employees), who shall not include retired persons of the retirement system, and the President of the Board of Supervisors.

In January 1992, a group of seven San Francisco Unified School District (SFUSD) employees petitioned the Retirement Board for permission to:

(a) Rescind their retirements;

(b) Repay the pension money they had drawn from the Trust Fund; and

(c) Retire again during the early retirement window.

Of the seven SFUSD employees who petitioned the Retirement Board, two had received their first pension checks on August 1, 1991, and five had received their first pension checks on September 1, 1991. Their claims were made on the basis that information had not been provided to them that might have influenced their retirement decisions. At that time, the Retirement Board denied the petitions, based on a 3 to 3 vote with one Commissioner absent.

The petitioners reintroduced their request, which was placed on the Retirement Board calendar on two additional occasions, but was continued at the request of the petitioners because the seventh Commissioner, who could have cast the deciding vote, was absent. The request was finally heard on March 24, 1992. At that time, the Retirement Board approved, by a 4-3 vote, the petitions of the five employees who had received their initial pension checks September 1, 1991, and disapproved the petitions of the one employee who had received his initial pension check August 1, 1991. According to Mr. Dan Maguire of the City Attorney's Office, the petitions of those who retired September 1, 1991 were approved because the Retirement Board decided that ERS had adequate time to provide information regarding Proposition A to those employees prior to their retirement, and that it was a failure on the part of ERS that such information was not provided. The Retirement Board denied the petitions of those who retired August 1, 1991 because the Retirement Board decided that it was not reasonable to expect ERS to provide information regarding Proposition A to employees who retired August 1, 1991, since the decision regarding Proposition A was made by the Board of Supervisors only one day in advance of August 1, 1991, or July 31, 1991.

As a separate, unanymous decision, the Retirement Board extended the offer to rescind the previous retirements and to retire again during the early retirement window to all individuals in the same situation as the petitioners. On March 25, 1992, ERS mailed letters to those individuals who had received their first pension check on September 1, 1992,[1] a total of 124 individuals including the five petitioners, to offer them the opportunity to:

(a) Rescind their first retirement;

(b) Repay the amount they had drawn from the Trust Fund since their first retirement; and

(c) Retire again before the March 30, 1992 deadline, thereby receiving the benefit of the Early Retirement Program.

ERS staff and the City Attorney recommended against allowing employees to rescind their retirements and retire again, on the basis that ERS is obligated only to inform members of actual provisions of the Retirement System, and is not obligated to inform members of possible future provisions.

ERS advises that the results of this decision were as follows:

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[1]Pension checks are issued only on the first day of every month.

Impact of Offer to Rescind September 1, 1991 Retirement

Number of individuals to rescind previous retirements	Approximate total future cost to the City over retirees' lifetimes
45	$1.5 million*

* These funds will be provided from the Employees Trust Fund. The Trust Fund is funded by a combination of investment returns and employee and employer contributions. The General Fund contribution to the Trust Fund is equal to approximately 81 percent of the City's total contribution.

Employees who rescinded their original retirements and retired again during the early retirement window were asked to sign a "Settlement and Release of Claims." This Settlement and Release of Claims stated: "Member agrees that s/he will neither disclose nor voluntarily allow anyone else to disclose either the reasons for or the provisions of this agreement, or otherwise communicate the circumstances of this dispute or the basis or terms for its resolution without the System's prior written consent unless compelled to do so by legal process." The Settlement and Release of Claims is included as Appendix A at the end of this report.

Proposition A stated that "this early retirement incentive shall apply only to members who retire from service with an effective date of retirement on or after February 1, 1992." This statement specifically excludes individuals with an effective retirement date prior to February 1, 1992, including individuals who retired September 1, 1991. Written information produced by the Retirement System during the Fall of 1991, which explains the provisions of Proposition A, specifically states that individuals who retired before February 1, 1992, are ineligible for the Early Retirement Program. Proposition A, as approved by the voters and included in the City's Charter, was intended as a cost-saving measure, as well as an employee benefit. According to Ms. Bonnie Gibson, a member of the Retirement Board and an attorney, the Retirement Board was under no clear legal obligation to allow individuals to rescind their retirements and to retire again. By permitting employees who had previously retired to undo their previous retirements and retire again under the Early Retirement Program, the Retirement Board awarded these 45 individuals enhanced retirement benefits and incurred an estimated cost to the City of $1.5 million, rather than saving City funds per the intent of Proposition A.

Since the positions of those individuals who originally retired September 1, 1991 under the regular retirement process were considered regular retirements and not required to be abolished under the mandates of Proposition A, any positions vacated by September 1, 1991 retirements were not subject to consideration by the Proposition A Committee. Therefore, these positions could not be eliminated by the Proposition A Committee after the original retirements were rescinded and those individuals retired again. Since Proposition A was intended as a cost-saving measure, with savings to be realized through the abolishment of positions, allowing early retirements without any consideration to abolishing these positions subverted the cost-saving intent of Proposition A.

Mr. Dan Maguire of the City Attorney's Office advises that although employees are routinely authorized to rescind their retirements if they have not yet cashed a pension check and withdrawn funds from the Trust Fund, this decision marks the first time that employees whose first pension check already had been cashed were allowed to rescind their retirement. Ms. Gibson advises that there is concern that the Retirement Board's decision may now set a precedent whereby individuals who have cashed their first retirement check will attempt to undo their retirements. Mr. Maguire reports that the Retirement Board had the independent authority to authorize those 124 individuals who received their first check September 1, 1991 to rescind their retirements and repay the Trust Fund because the Retirement Board has the authority to administer the City's pension program. According to Mr. Maguire, the decision to allow those individuals to retire again during the early retirement window is not intended to open the process to people outside the window. Instead, Mr. Maguire advises, the decision was made to correct an information gap, in that ERS knew before September 1, 1991, that Proposition A had been approved by the Board of Supervisors for placement on the November 1991 ballot, but did not provide any information regarding Proposition A to individuals who retired on September 1, 1991.

Although the Budget Analyst recognizes the Retirement Board's attempt to correct a failure to provide information, the provisions of Proposition A clearly stated that individuals who had previously retired were not eligible for early retirement. Furthermore, the result of the Retirement Board's decision was to create an enormous inequity. The Retirement Board's decision was delayed in deference to a written request on the part of the petitioners, because the seventh commissioner had committed to attend the March 24, 1992 meeting. Because the Retirement Board's decision was not made until the March 24, 1992 meeting, and ERS letters were not mailed until March 25, 1992, individuals could not have received the letter before March 26, 1992, and many most likely received the letter March 27, 1992 or later. March 28 and March 29, 1992 were week-end days, when financial institutions are closed. The decision and paperwork were required to be completed by March 30, 1992.

An inequity is inherent in notifying individuals by mail, three working days before the March 30, 1992 end of the early retirement window, that they can repay the pension benefits they have already received and retire again to benefit from the Early Retirement Program. Any retiree who may have been traveling of out-of-town for those few days may not have had the option available to them. Furthermore, for most retirees, the amount required to repay their pension benefits was $10,000 or greater. Since some or all of the benefits paid had already been expended, accumulating $10,000 in cash, even with time to spare, may not be an easy task, particularly individuals who were not employed in high-paying jobs.

According to the Vice President of the Retirement Board, it was a generally held perception of the Retirement Board that only a few would rescind their retirements, because in order to retire again, individuals were required to make an immediate pay-back of any funds received from the Retirement System.

However, there is no documentation that this was the generally held perception and, in any event, all employees were in fact made eligible to rescind their retirements and retire again.

The Vice President of the Retirement Board advises that the following circumstances mitigate the inequity of this decision:

- *Bridge loans are readily accessible to individuals on fixed income from various financial institutions.*

It is difficult to receive approval for a bank loan in 24 hours or less, and many individuals presumably are not aware that bridge loans are available.

- *The Retirement System would have "been reasonable" had an individual stated that he was interested in repaying his benefits, but needed time to gather the funds.*

The letter that was mailed to the 124 individuals did not indicate that additional time would be allowed to collect funds.

- *If individuals failed to assert their interest in the program, the Retirement System cannot be held responsible.*

According to statements by Retirement System staff, one of the reasons extensive information was provided to every employee eligible for early retirement, whether or not they requested such information, was to ensure that every individual eligible to retire had adequate information with which to make a decision. If such information were not provided by the Retirement System, staff stated, then the Retirement System might be legally and ethically responsible for employees' uninformed decisions.

Given the Retirement System's stated policy that, in order to make a decision regarding retirement, eligible employees must be provided with extensive information, the contention that if individuals fail to assert their interest in the program is not the responsibility of the Retirement System is completely inconsistent. In fact, substantial supplemental appropriations to implement the Early Retirement Program were authorized to ensure that all individuals eligible for the Early Retirement Program had access to various information that would allow those individuals to make a responsible, well-considered choice regarding their retirement.

Under no circumstances would the Retirement Board's decision to offer this benefit have been either in the best interests of the taxpayers or within the cost-saving intent of Proposition A. However, given that the Retirement Board made the decision to offer this benefit on March 24, 1992, it would have been difficult or impossible for the Retirement System staff to prepare information within the necessary time frame. The Vice President of the Retirement Board advises that since the seventh Commissioner was absent until the March 24, 1992 meeting, the Retirement Board had no control over the approval date. In fact, the Retirement Board could have pursued the issue prior to the March 24, 1992

meeting in a number of ways, such as determining that there was insufficient time to adequately notify retirees of the Early Retirement Program by late March and setting a deadline, for example March 1, 1992 after which voting could not be done.

The Retirement Board's decision to allow individuals to rescind their retirements and retire again during the early retirement window was not in the best interests of the taxpayers, and would not have been in the best interests of the taxpayers whenever the decision was made. The decision also subverted the cost-saving intent of Proposition A, in that the positions of those who originally retired September 1, 1991, could not be abolished, and would have subverted the cost-saving intent of Proposition A whenever the decision was made. The fact that the timing of the Retirement Board's late decision created an inequity, in addition to being outside of the best interests of the taxpayers and subverting the cost-saving intent of Proposition A, made the decision even more inadvisable.

As noted above, concern has also been expressed that allowing some individuals to rescind their retirements and retire again might set a precedent for rescinding retirements in the future. In order to establish a universal, equitable policy, the Retirement Board should establish a written policy on rescinding retirements, and should follow that policy in the future.

Conclusions

On March 24, 1992, the Retirement Board approved, by a 4-3 vote, a resolution to allow individuals who had retired on September 1, 1991, to repay the pension benefits they had received since retiring, rescind their retirements, and retire again during the early retirement window. 124 individuals were eligible to rescind their retirements and retire again, and 45 individuals accepted the offer, at an estimated unnecessary cost to the City of $1.5 million.

According to members of the Retirement Board, the Retirement Board's decision was made to correct an informational gap, in that ERS knew before September 1, 1991, that Proposition A had been approved by the Board of Supervisors for placement on the November 1991 ballot, but did not provide any information regarding Proposition A to individuals who retired on September 1, 1991.

This decision by the Retirement Board to allow those individuals to rescind their retirements was clearly a decision which was not in the best interests of the taxpayers of the City and County of San Francisco. As a consequence of this decision: (1) a precedent for rescinding retirements after a pension check is cashed may have been set; and (2) because of the timing of the decision, retirees may not have received the notice prior to March 30, 1992, it was difficult for individuals with fewer financial resources to repay their pension benefits, and an inequity was created; and (3) the City incurred an unnecessary expense of approximately $1.5 million.

Since the positions of those individuals who originally retired September 1, 1991 under the regular retirement process were not required to be abolished under the mandates of Proposition A, no hiring freeze for those positions was in place. Therefore, these positions could not be eliminated by the Proposition A Committee after the original retirements were rescinded and those individuals retired again. Since Proposition A was intended as a cost-saving measure, with savings to be realized through the abolishment of positions, allowing early retirements without any consideration to abolishing these positions subverted the cost-saving intent of Proposition A.

The Retirement Board should be abolished through the establishment of a Charter Amendment, with the President of the Board of Supervisors, three members of the Board of Supervisors, and three employee representatives assuming the role of the Retirement Board. Decisions affecting millions of dollars of taxpayers' monies contained in a $5.2 billion Trust Fund (as of June 30, 1992) should not be left on the hands of non-elected officials without close review and approval by the Board of Supervisors.

Recommendations

The Board of Supervisors should:

2.1 Submit a Charter Amendment to the electorate for the purpose of abolishing the Retirement Board and having the President of the Board of Supervisors, three members of the Board of Supervisors, and three employee representatives assume the role of the Retirement Board.

Costs and Benefits

The Board of Supervisors is responsible for fiscal decisions regarding the General Fund and special funds, and would therefore be able to make decisions which are in the best interests of the entire City rather than members of the Retirement System only. In addition, members of the Board of Supervisors are elected and therefore subject to scrutiny and approval by the San Francisco electorate. In this case, the City may have saved an unjustified and unnecessary expense of an estimated $1.5 million.

Section 3: Who Pays?

- THE RETIREMENT BOARD, WITH THE ADVICE OF ERS STAFF, KNEW THAT THE RETIREMENT TRUST FUND WOULD RECOVER WHATEVER COSTS WERE EXPENDED FOR THE EARLY RETIREMENT PROGRAM THROUGH THE PROCESS OF ESTABLISHING THE EMPLOYERS (CITY) RETIREMENT RATE TO SUPPORT PENSIONS AND BENEFITS FOR CITY RETIREES.

- AS A RESULT, THE RETIREMENT BOARD AND ERS STAFF WERE NOT ADEQUATELY CONCERNED WITH MINIMIZING COSTS AND IN FACT OBTAINED AUTHORITY TO EXPEND 124 PERCENT MORE IN COSTS TO IMPLEMENT THE EARLY RETIREMENT PROGRAM THEN THE ORIGINAL COST ESTIMATES.

- THIS LACK OF CONCERN IS DOCUMENTED ON PAGES 33 AND 34 OF THIS REPORT BASED ON AN EXCERPT FROM A TRANSCRIPT OF THE OCTOBER 8, 1991 RETIREMENT BOARD MEETING.

- COSTS MIGHT HAVE BEEN CONTROLLED IF ERS HAD BUDGETARY INCENTIVES.

- THE BOARD OF SUPERVISORS SHOULD SUBMIT A CHARTER AMENDMENT TO REQUIRE THAT THE CITY'S CONTRIBUTION RATE BE SUBJECT TO APPROVAL BY THE MAYOR AND THE BOARD OF SUPERVISORS. THE BOARD OF SUPERVISORS SHOULD FURTHER REQUEST THAT AN ITEMIZED JUSTIFICATION FOR THE RETIREMENT RATE SETTING BE PROVIDED. THE CHARTER AMENDMENT SHOULD REQUIRE THAT THE MAYOR AND THE BOARD OF SUPERVISORS REVIEW THE RATE SETTING PROCESS IN ORDER TO IDENTIFY POSSIBLE ADMINISTRATIVE COST OVERRUNS.

The Employees' Retirement Fund (Trust Fund) supports the annual budget of ERS as well as pension benefits for City employees. The Trust Fund is comprised of investment income and contributions from the City and from members of the Retirement System. The City contribution to the Retirement Fund, according to Section 16.63 of the Municipal Code, should equal the amount necessary to pay all pensions and all other allowable benefits, with appropriate exceptions. In addition, according to Section 16.64 of the Municipal Code:

> The administrative costs of the Retirement System shall be met by contributions of the City and County. Such contributions shall be

charged against the appropriation for the system in the budget for the then current fiscal year and paid from other funds as determined by the Controller on the basis of information furnished by the Retirement Board.

Thus, the Retirement Board establishes a rate on an annual basis, designed to support pensions and benefits for members and the administrative costs of the Retirement System. According to Section 16.39 of the San Francisco Municipal Code, the Retirement Board has exclusive control of the administration and investment of the Trust Fund. Thus, the Mayor and the Board of Supervisors must accept the rate established by the Retirement Board, without disputing the justification for such a rate. The rates established by the Retirement Board for 1991-92 were 12.67 percent of total salaries for miscellaneous employees, 25.92 percent for Police Officers and 50.65 percent for Firefighters.[1]

The General Fund supports approximately 81 percent of the City's contribution to the Trust Fund. Thus, any decrease in the City's contribution to the Trust Fund results in direct savings to the General Fund.

The Retirement Board is concerned with the oversight of the Trust Fund, not with the oversight of the General Fund. The Retirement Board is mandated to ensure that all monies from the Trust Fund are appropriately expended for the benefit of members of the Retirement System. Therefore, the Retirement Board was concerned that Trust Fund monies should not be expended before Proposition A was approved, since such expenditures would not benefit members in the event that Proposition A was not approved. However, the Retirement Board felt that, in order for members to be adequately informed about the provisions of Proposition A, preparatory work needed to be done prior to the election.

In order to provide the information they felt members would need in the event that Proposition A was approved, the Retirement Board authorized the expenditure of Trust Fund monies with the caveat that any funds expended would be entirely recouped from the General Fund through its rate setting process. As noted above, the General Fund comprises approximately 81 percent of the City's total contribution to the Trust Fund.

The rate setting process establishes a mechanism whereby administrative costs, in any amounts determined by the Retirement Board, including amounts for travel, can be fully reimbursed from the City. Although some administrative costs must be approved by the Mayor and the Board of Supervisors through the budget process, the fact that administrative costs are entirely recovered through the rate setting creates a lack of budgetary incentive for the <u>Retirement Board</u> to contain costs. The Retirement Board was not adequately concerned with containing Early Retirement Program implementation costs, regardless of the

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[1]Due to an error in calculation, the City previously contributed funds to the City's unfunded retirement liability prior to the approved amortization schedule. Therefore, the rates for Police Officers and Firefighters have been adjusted to decrease the City's rates and related contributions for FY 1992-93.

amount, since the Retirement Board intended to recoup the cost of program implementation from the City.

The following is an excerpt from the October 8, 1991 Retirement Board Meeting (p. 10). The matter under discussion is the appropriateness of the use of Trust Fund monies to administer the Early Retirement Program prior to the passage of Proposition A.

> Commissioner (in reference to expenditure of funds for implementing the Early Retirement Program): The issue of waste isn't what I am particularly concerned about. We would normally recoup that money through the way we set our tables in the future. We could conceivably capture it all back in one year . . . We have the authority to do that, right?
>
> City Attorney: Right.
>
> Commissioner I: Would that be what we should do, if it were determined that if "A" didn't pass and the $200,000 should not have been spent from the Trust Fund?
>
> City Attorney: Should you include that in the bill you send to the City next year? Yes, if "A" loses . . .
>
> General Manager: . . . The Board could direct the staff to include [the cost of administering the program] in the [rate] calculations for next year, and it would be wholly appropriate. [The Mayor's Office is] aware that all of the expenses must be replenished, because this is an expenditure not provided for in the assumption for administrative costs [for this fiscal year].
>
> Commissioner I: In reference to the bill next year, that is itemized, am I correct? The Mayor's Office could reject that item?
>
> General Manager: No. The Mayor cannot pull that item out because [the Retirement Board] will give him a rate of contribution. Whatever rate you establish, the Retirement Board has the authority, the exclusive authority and responsibility, for establishing those rates, and the City must pay those rates under the Charter.

Although the Early Retirement Program was funded directly by the Retirement Fund, the City's General Fund contribution to the Retirement Trust Fund equals approximately 81 percent of the City's total contribution. The Retirement Board approved the second Supplemental Appropriation request of $1,733,764, for a total for both supplemental appropriations of $3,306,867, again with the understanding that such additional costs would be recovered from the City, and particularly the General Fund through the rate setting process. Such costs were approved by the Mayor and the Board of Supervisors through the

second supplemental appropriation request. The following excerpt is from the December 10, 1991 Retirement Board meeting:

> Commissioner I: In reference to the $3.4 million, it comes out of the Trust now, but in the end, we bill the City's General Fund for this?
>
> General Manager: Yes. Well, we bill all of the sources of funds which pay pension contributions. . .
>
> Commissioner II: . . . Is this a request not for an authorization from the Retirement Fund, but from the General Fund? I mean, are we going to the Board of Supervisors with this?
>
> General Manager: This is a request for a supplemental appropriation. The source of funds for this supplemental appropriation will be the Trust.
>
> Commissioner II: All right. Just let me make sure that I understand it. It's a charge against the Trust. Some of that will be recouped by actual billing or will it be recouped just through the rate setting?
>
> General Manager: Through the rate setting.

Because the rate setting process establishes a mechanism whereby administrative costs, in whatever amounts, can be recovered from the City, there is no incentive for the Retirement Board to contain costs. Since the Retirement Board has the sole authority to establish contribution rates, the Board of Supervisors should submit a Charter Amendment to the electorate in order that the retirement rates now set by the Retirement Board are subject to approval of the Mayor and the Board of Supervisors.

It should also be noted that some expenditures are presently being made directly from the Trust Fund without appropriation by the Board of Supervisors. Such expenditures have included professional services, travel expenditures, equipment data processing services, and others in the Investments Division.

Conclusions

The Retirement Board was concerned that Trust Fund monies should not be expended before Proposition A was approved, since such expenditures would not benefit members in the event that Proposition A was not approved. However, the Retirement Board felt that, in order for members to be adequately informed about the provisions of Proposition A, preparatory work needed to be done prior to the election. Therefore, the Retirement Board decided to expend Trust Fund monies. The ERS Trust Fund fully covers such costs for the Early Retirement Program implementation through increased City contribution rates. Since the Retirement Board planned to recoup all costs from the City for Early Retirement Program implementation, the Retirement Board had no incentive to minimize costs.

The contribution rates are established solely by the Retirement Board, and are not approved or reviewed by the Board of Supervisors or the Mayor. Such approval would require a Charter Amendment, since currently under the Charter, it is the Retirement Board's sole responsibility to administer the Employees' Retirement Trust Fund, including establishing the City's rate of contribution.

Recommendations

The Board of Supervisors should:

3.1 Submit a Charter amendment requiring that the City's contribution rate to the Employees' Retirement Trust Fund be subject to the approval of the Mayor and the Board of Supervisors. This Charter Amendment should require that:

> The Retirement Board provide an itemized justification for the rate setting to the Mayor and the Board of Supervisors.
>
> This itemized justification be reviewed by the Controller to identify errors in rate setting and unnecessary or exaggerated administrative costs.
>
> All expenditures of the Employees' Retirement System (including those of its Investment Division) should be subject to appropriation by the Board of Supervisors.

Costs and Benefits

Approval of the contribution rate setting would provide the Mayor and the Board of Supervisors with an opportunity to identify errors in rate setting and to deny any unnecessary or excessive administrative costs. In this case, the Retirement Board obtained authority to expend $3,306,867, knowing that such costs would be recuperated from the City, and particularly the General Fund, through the retirement rate setting process.

Section 4: Reduction of Workload Resulting from Early Retirement Program Accomplishments

- **ERS COMPLETED 6,400 SERVICE CALCULATIONS AND BENEFIT ESTIMATES FOR THE EARLY RETIREMENT PROGRAM, WHEN IN A TYPICAL YEAR ERS COMPLETES 500 OF SUCH CALCULATIONS.**

- **FEWER INDIVIDUALS ARE ANTICIPATED TO RETIRE OVER THE NEXT THREE YEARS, AND A SUBSTANTIAL PORTION OF THE WORK ASSOCIATED WITH ANY RETIREMENTS HAS ALREADY BEEN COMPLETED.**

- **THEREFORE, ERS' WORKLOAD WILL BE SUBSTANTIALLY REDUCED OVER THE NEXT FEW YEARS.**

- **ERS STAFF SHOULD BE REDUCED, AND SAVINGS RESULTING FROM STAFF REDUCTIONS SHOULD BE REFLECTED IN REDUCED CONTRIBUTION RATES.**

The Retirement System General Manager advises that in a typical year, approximately 500 persons retire. However, as part of the Early Retirement Program, calculations were completed for 6,400 City and School District employees. Thus, ERS completed approximately 13 years' worth of service calculations in a five month period. These service calculations are now complete for any employees who are currently at least 47 years old and have at least 17 years of service, and as such will not need to be completed in future years when those individuals elect to retire. In addition, any City employee who retires less than three years after the beginning of the early retirement window, or before February 1, 1995, would receive less than they would have received had they retired during the window. We therefore anticipate that significantly fewer individuals will retire over the next three years than in a typical year. Thus, ERS' workload is anticipated to decrease substantially for the next three years, and to be somewhat reduced over the ensuing ten years, since 13 years' worth of service calculations were completed under the Early Retirement Program.

Because calculations have been completed for a substantial portion of future retirees, and since fewer individuals are anticipated to retire over the next three years, ERS' workload is anticipated to be substantially reduced. Specifically, the Budget Analyst anticipates that for the next three years, ERS workload will be reduced by a total of 4,000 hours, including the following: (1) 3,000 hours for benefits calculation (based on 500 calculations at an average of six hours per calculation); (2) 750 hours for individual interviews (based on 500 individual interviews at an average of 1.5 hours per interview, including preparation time); and (3) an additional 250 hours for miscellaneous activities associated with 500 retirements, including responding to telephone inquiries, providing second individual interviews, and clerical tasks such as filing and data entry.

Based on 46 weeks per year (52 weeks less six weeks for vacation, sick time and holidays) times 40 hours per week, a typical employee might work 1,840 hours per year. Since ERS' workload is anticipated to be reduced by 4,000 hours, the Budget Analyst recommends that ERS should eliminate at least two positions for fiscal years 1992-93, 1993-94 and 1994-95. One of the eliminated positions should be an 1810 Actuarial Clerk, at an annual salary of $28,266 to $34,101, plus fringe benefits. The other eliminated position should be at the discretion of the Department, since a variety of tasks are associated with processing retirements and the Department is in the best position to judge which position's workload will be most substantially reduced as a result of the Early Retirement Program.[1]

Assuming that the second eliminated position would pay approximately the same as an 1810 Actuarial Clerk, or $28,266 to $34,101 plus fringe benefits, without salary standardization, the savings that would result from eliminating a Step I 1810 Actuarial Clerk and a second position, at the Department's discretion, are as follows:

	One Year	Two Years	Three Years
1810 Actuarial Clerk, Step I	$28,266	$56,532	$84,798
Second Position*	28,266	56,532	84,798
Subtotal	$56,532	$113,064	$169,596
Fringe Benefits (25 percent)	14,133	28,266	43,399
TOTAL SAVINGS	$70,665	$141,330	$211,995

*Assumes annual salary would be approximately the same for an 1810 Actuarial Clerk and the position eliminated at the Department's discretion.

ERS administrative costs are included in the contribution rates established for the City. Any savings which result from a reduction in administrative costs should be reflected in a reduction in contribution rates charged to the City. Contribution rates paid by the City include approximately 81 percent being paid by the General Fund.

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[1] Based on a workplan submitted by ERS to the Budget Analyst, assuming that 260 persons would retire each year for the next five years, rather than the typical 450 to 500, the Budget Analyst estimates that approximately 3.5 FTE positions could be eliminated for five years. This estimate is based on a percentage reduction in hours in various specific task areas, such as retirement interviews, counseling, calculations, and microfilm payroll data. These tasks and hours were provided by ERS. Since ERS lost one full-time position through Proposition A, and since salary savings were increased in FY 1992-93, the Budget Analyst recommends the more conservative reduction of 2.0 staff members included in the body of this report.

Conclusions

The Retirement System General Manager advises that in a typical year, 500 persons retire, and since calculations were completed for 6,400 individuals as part of the Early Retirement Program, the ERS completed approximately 13 years' worth of service calculations in a five month period. Prior service calculations are now complete for any employees who are currently at least 47 years old and have at least 17 years of service, and as such will not need to be completed in future years when those individuals elect to retire. In addition, any employee who retires less than three years after the beginning of the early retirement window, or before February 1, 1995, would receive less than they would have received had they retired during the early retirement window. We therefore anticipate that significantly fewer individuals will retire over the next three years than in a typical year.

Because calculations have been completed for a substantial portion of future retirees, and since fewer individuals are anticipated to retire over the next three years, ERS' workload is anticipated to be substantially reduced for the next three years, and somewhat reduced for the ensuing ten years.

Recommendations

The Board of Supervisors should:

4.1 Eliminate two positions from the ERS budget in this current Fiscal Year 1992-93 and continue the deletion of these positions in future years. One of the positions eliminated should be an 1810 Actuarial Clerk, at an annual salary of $28,266 to $34,101, plus fringe benefits. The other position eliminated should be at the discretion of the Department.

4.2 Request that the ERS consider such reduced expenditures in its calculation of the retirement contribution rates in future years because of this reduction in staffing.

Costs and Benefits

Elimination of positions commensurate with the reduction in workload will reduce City expenditures by $28,266 to $34,101 plus fringe benefits for one 1810 Actuarial Clerk, and an unspecified amount for an additional eliminated position. Assuming that the salary plus fringe benefits would be the same for the second eliminated position as for the 1810 Actuarial Clerk, at least an estimated $211,995 would be saved over three years from the elimination of these two positions, without regard to the savings resulting from future salary increases.

Section 5: The Survey

- ALL INDIVIDUALS WHO WERE ELIGIBLE TO RETIRE AUTOMATICALLY RECEIVED SIX DOCUMENTS CONTAINING DETAILED INFORMATION, AND ALL INDIVIDUALS WHO ELECTED TO RETIRE WERE REQUESTED TO ATTEND INDIVIDUAL INTERVIEWS.

- BASED ON THE BUDGET ANALYST'S SURVEY OF 91 INDIVIDUALS WHO ELECTED TO RETIRE, MOST PERSONS ATTENDED BOTH A GROUP INTERVIEW AND AN INDIVIDUAL INTERVIEW, EVEN THOUGH MOST DID NOT HAVE QUESTIONS THAT COULD NOT BE ASKED IN THE GROUP SETTING. OUR SURVEY INDICATES THAT EMPLOYEES MAY HAVE RECEIVED MORE INFORMATION THAN THEY REQUIRED TO MAKE THE DECISION TO RETIRE.

- RESPONDENTS REPORTED AVERAGE INTERVIEW TIMES THAT WERE SHORTER THAN THE CONTRACTOR REPORTED. FURTHER, A PORTION OF THE INDIVIDUAL INTERVIEWS WAS SPENT READING AND FILLING OUT FORMS. AS A RESULT, THE CITY MAY HAVE PAID FOR MORE CONTRACTOR HOURS THAN IT RECEIVED AND CONTRACTOR STAFF TIME MAY HAVE BEEN INEFFICIENTLY UTILIZED.

- COSTS COULD HAVE BEEN CONTAINED IF ERS HAD INDEPENDENTLY CONFIRMED INTERVIEWER HOURS AND IF EMPLOYEES COMPLETED ALL READING AND WRITING IN ADVANCE. ATTEMPTS SHOULD HAVE BEEN MADE TO REDUCE CONTRACTOR HOURS.

- ESTIMATED ERS COSTS OF $360,963 WERE EXCESSIVE, IN THAT FEWER PIECES OF PRINTED INFORMATION WOULD HAVE BEEN ADEQUATE, INDIVIDUAL INTERVIEWS COULD HAVE BEEN REPLACED WITH GROUP INTERVIEWS OR WALK-IN COUNSELORS, AND INDIVIDUAL INTERVIEWS COULD HAVE BEEN SHORTENED AND PROVIDED TO FEWER EMPLOYEES. COSTS WERE NOT REDUCED DESPITE THE FACT THAT PENSION CALCULATIONS HAD BEEN COMPLETED PRIOR TO THE EARLY RETIREMENT PROGRAM FOR A NUMBER OF ELIGIBLE EMPLOYEES.

- IN GENERAL, INFORMATION REGARDING SPECIAL EMPLOYEE BENEFITS SHOULD BE PROVIDED ON A REQUEST-ONLY BASIS.

Information Provided to Eligible Employees

The Budget Analyst conducted a survey of 91 employees who elected to retire under the Early Retirement Program. Respondents were selected randomly by the Budget Analyst from the entire population of individuals who elected to retire early. Our survey, with 95 percent confidence, can be generalized to the entire population of employees who attended interviews and decided to retire, plus or minus five percent. In addition, the Budget Analyst conducted a survey of a sample of ten individuals who elected not to retire. Responses from employees who elected not to retire cannot be generalized to the population of employees who have elected not to retire. Unless specified, the following information pertains only to those individuals who elected to retire under the Early Retirement Program and not to those who elected not to retire.

In general, respondents reported overall satisfaction with the information they received from the Employees' Retirement System. When asked whether the informational flier, the general letter, and the information packet were adequate, on a scale of one to five, with one being "strongly agree," and five being "strongly disagree," the average response was a two, or "agree," with a slightly more favorable average response (of 1.9) to the information kit.

90 percent of the respondents attended group meetings. Almost all (95 percent) of the respondents who attended a group meeting said that the meeting answered their general questions about the Early Retirement Program, and almost three-quarters (73 percent) responded that the group meeting answered their specific questions.

92 percent of the persons who elected to retire attended group interviews, according to our survey. ERS reports that, of the total eligible population of 6,400, over 2,450, or 38 percent of eligible employees, attended group interviews. In general, employees responded very favorably to the group meetings. Employees reported that ERS staff presenters were knowledgeable and informative. Employees who attended the group meetings felt that their general and specific questions were answered in the group meeting, and more than half reported that they did not have personal questions which they felt could not be asked in a group setting.

In addition to our survey, TPF&C distributed a three-question rating sheet to employees immediately after the individual interview. Based on 49 TPF&C survey responses provided by ERS: 98 percent of respondents reported that their questions were answered in a satisfactory manner; 100 percent of respondents reported that the Retirement Counselor was knowledgeable about the Early Retirement Program; and 98 percent of respondents reported that the retirement interview was satisfactory. The Budget Analyst's findings differed somewhat from TPF&C's findings. Although the Budget Analyst's survey did not ask respondents to evaluate their interviewers, 11.8 percent commented that their interviewer was "not knowledgeable enough." These comments were not made in response to a question, but were volunteered by survey respondents.

Almost half of the respondents (48 percent) reported that they did not receive one or more piece of information provided by the Retirement System. Most (70.9 percent) reported that they needed every piece of information which they did receive in order to make the decision to retire.

Individual Interviews

Interview Attendance
(Budget Analyst Survey Responses)

	Percent Attended	Answered General Questions	Answered Specific Questions	Personal Questions That Could Not Be Asked
Group	90%	95%	73%	48%
Individual	98	93	87	not applicable

Individual interviews, at a total budgeted cost of $687,550 out of the $3,049,052 contract awarded by ERS to TPF&C, were the second most costly portion of the contract. Individual interviews consisted of a meeting between a retirement counselor from ERS or TPF&C and a single employee. Spouses or another family member could also attend. Individual interviews were scheduled to last one hour each. TPF&C also billed the City for one-half hour of preparation time prior to the individual interview.

In order to retire, employees were requested to attend an individual interview, even if they had attended a group interview, in part, because ERS felt that employees might be uncomfortable asking personal questions in a group setting. Since most (52%) employees felt comfortable asking all of their questions in the group setting, in the judgment of the Budget Analyst, the individual interview should not have been routinely provided to eligible employees, but should have been provided only if employees felt that they needed additional information and counseling in order to make the decision to retire.

In fact, Peat Marwick, a bidder on the Early Retirement Program contract, suggested in its proposal that, rather than providing formal individual interviews to everyone, counselors be made available on a drop-in basis to answer short questions and assist employees to fill out forms. These short drop-in meetings were proposed as a cost saving measure, since short drop-in meetings would be less costly than hour long individual meetings. Specifically, Peat Marwick's proposal stated: "[Interview] time could probably be reduced significantly by having counselors on site for employees to 'stop by' briefly for a few minutes to ask some specific questions rather than devote an entire hour to a meeting."[1] However, this was an idea that neither ERS nor TPF&C pursued.

---

[1] Peat Marwick included full-length individual interviews in its bid of $1,687,925, in accordance with the RFP issued by ERS. Any savings that would have resulted from offering short, drop-in meetings instead of full-length individual interviews would have resulted in a reduction in Peat Marwick's bid price.

If fewer employees had attended individual interviews, the Budget Analyst estimates that the following savings would have resulted:

Cost Reductions Resulting from Fewer Individual Interviews

Number of Interviews	Percent Reduction in Interviews	Total Cost	Savings Resulting from Reduction in Number of Interviews
3,500*	0	$687,550**	not applicable
2,625	25	515,663	$171,887
1,750	50	343,775	343,775

* Actual number of interviews.
**Actual amount included in contractor budget for individual interviews.

Length of Individual Interviews

Those respondents who elected to retire reported that their average interview time was just under 45 minutes. As noted above, we can say with 95 percent confidence that our information can be generalized to the population of individuals who have elected to retire, plus or minus five percent. Thus, we can say with 95 percent confidence that the average interview time for everyone who elected to retire under the Early Retirement Program was between approximately 43 minutes and approximately 47 minutes. Those who elected not to retire report a shorter average interview time of approximately 28 minutes.

According to TPF&C, the average interview time was just over one hour. This contradicts our survey finding that interviews lasted approximately 43 to 47 minutes for those who elected to retire, a difference of approximately 25 percent. (Those who elected not to retire reported interview times of 28 minutes. As noted above, responses from those who elected not to retire cannot be confidently generalized to the population of employees who interviewed but elected not to retire. Nevertheless, it is reasonable to assume that these interviews may have been shorter.) The reason for the discrepancy between our findings and TPF&C's records might be attributed to the following:

(1) There is a five percent chance that the reason for this discrepancy is that our sample is atypical of the entire population;

(2) Survey respondents may not accurately remember the length of their interviews;

(3) TPF&C's recordkeeping or reporting might be faulty. ERS received daily interview schedules from the contractor, but these did not include actual time for the interviews, and interview length was not

independently confirmed. Since ERS established no adequate contractor oversight, no independent confirmation of interview times has been made. It is therefore impossible to eliminate or confirm this final possibility. The ERS General Manager advises that the Department has no reason to believe that the number of hours billed to the City by the contractor are incorrect.

Efficiency of Individual Interviews

ERS encouraged interviewees to fill out a number of forms before coming in for their interviews. For example, individuals were asked to complete name and address portions of forms in advance. Encouraging employees to fill out forms as much as possible in advance saves the City money, in that the contractor's interview staff spends less time waiting while individuals complete forms during the interview period.

Although the Budget Analyst recognizes ERS' limited efforts in reducing the amount of time interviewers spent waiting while forms were being filled out, respondents nonetheless reported spending an average of eight minutes reading written information and just over ten minutes filling out forms at the interview. To the extent that these activities could have been completed in advance, costs to the City would have been minimized.

Cost Savings from Reducing Number and Length of Interviews

To summarize the preceding sections, costs to the City for interviews as a result of: (1) requiring individual interviews for every employee who decided to retire; (2) the contractor billing the City for 1.5 hours per interview when only $1^1/_4$ hours might have been used; and (3) the City being billed for interview time when interviewees were reading or filling out forms; is as follows:

<u>Reduction in Costs Resulting from Improved Oversight and Efficiency</u>

Total cost of interviews, at 1 hour each, plus $^1/_2$ hour preparation:		$687,550
Estimated Savings from Improved Oversight:		
Cost of interviews, if all employees were not requested to attend individual interviews as had been suggested by Peat Marwick, and as a result $^3/_4$ the number of interviews were provided:		515,663
Savings from providing $^3/_4$ the number of individual interviews:	$171,887	
Cost of interviews, at 45 minutes each, plus $^1/_2$ hour preparation (based on our survey):		429,719

Savings from 15 minute reduction ($515,663 less $429,719):	$85,944	
Cost of interviews, at 37 minutes each, plus 1/2 hour preparation (assumes that eight minutes of reading time could have been completed in advance):		$383,882
Savings from 8 minute reduction ($429,719 less $383,882):	45,837	
Cost of interviews, at 27 minutes each, plus 1/2 hour preparation (assumes that ten minutes of writing time could have been completed in advance):		326,587
Savings from 10 minute reduction ($383,882 less $326,587):	57,295	
Total Savings	$360,963	
Total Costs Which Should Have Been Incurred		$326,587

As reflected above, if all of these improved oversight and efficiency measures had been implemented, the City could have saved $360,963 or over 52 percent of the cost to conduct these individual interviews.

Pension Calculations

ERS routinely calculates pension estimates for individuals who are considering retiring. A number of respondents reported previous eligibility to retire and/or previous contact with ERS, as follows:

- 65.6 percent of survey respondents who elected to retire reported that they were previously eligible to retire;
- 55.2 percent reported that they had previously considered retiring; and
- 35.6 percent reported that they had met with the Retirement System on at least one previous occasion regarding retirement.
- Almost one-quarter (22 percent) of respondents who elected not to retire reported having met with the Retirement System previously.

Despite these prior contacts, the contractor allotted over six hours for calculations for every eligible employee. As noted above, ERS routinely calculates pension estimates for individuals who are eligible for retirement and meet with ERS. Even though ERS had already partially completed benefits calculations for a portion of eligible employees, the contractor did not reduce the number of hours for the calculations which had previously been made for any eligible employees. Also, employees who had previously met with the Retirement System most likely

required less individual interview time. However, the average interview time for which the City was charged was not reduced, even though a portion of employees had previously met with the Retirement System.

One fourth of the respondents did not remember receiving a final calculation, stating what their pension benefit would be if they retired on a specific day of their choosing within the early retirement window. This final calculation was made at an added cost to the City of $188,000. ERS advised that if the contractor did not complete the final calculations, ERS would be unable to complete final calculations until May 1992 or later. Pension checks either would not be mailed, or would be slightly inaccurate, until final calculations were complete. In addition, ERS advised that eligible employees had a right to know exactly what their benefits would be if they retired on a certain day within the window. However, since 25 percent of those surveyed do not remember receiving a final calculation, we conclude that this second calculation could have been any of the following: (1) very similar to the first estimate; or (2) peripheral to employees' retirement decision; or (3) never received by employees. Although final calculations were definitely completed before pension checks were mailed, since no contractor oversight was established, we cannot determine whether or not final calculations were completed in time to be provided to employees at the individual interviews.

Conclusions

ERS automatically provided several pieces of written information to every person eligible to retire under the Early Retirement Program, and required that every employee who elected to retire attend an individual interview.

Respondents to the Budget Analyst's survey reported that their interviews lasted an average of 45 minutes, while the contractor billed ERS for one hour interviews. Because of the lack of contract oversight, no independent confirmation of interview length can be made.

Survey respondents reported spending an average of ten minutes filling out forms and eight minutes reading at the interview. If this reading and writing were completed in advance, the City would have paid for fewer contractor hours.

We estimate that costs to the City for interviews could have been reduced by 52 percent, or $360,963, from $687,550 to $326,587 if fewer persons attended individual interviews, individual interviews were shorter, and individual interviews included less time for reading or filling out forms.

Recommendations

5.1 Implement the recommendations in Section 1 above, establishing standard contractor selection and oversight procedures.

Costs and Benefits

Establishing standard contractor selection and oversight procedures would assist ERS and other Departments to ensure that contractors implement programs as efficiently as possible, and would ensure that independent confirmation of contractor hours is established. In this case, estimated savings of $360,963 could have been realized on the ERS contract awarded to TPF&C.

SETTLEMENT AND RELEASE OF CLAIMS

RETIREMENT NO.

1. This agreement, concerning matters relating to the City and County of San Francisco Employees' Retirement System ("System") is made by and between , a member of the System ("Member"), and the Retirement Board ("Board") which governs the System.

2. Member retired for years of service effective , 1991. Member claims that s/he was not properly counselled concerning the Early Retirement Program ("ERP") before member finalized his or her service retirement in 1991.

3. Member appealed to the staff of the Retirement System for the ERP benefits in a timely fashion.

4. Pursuant to this agreement, Member agrees to reimburse the System for all pension benefits received between , 1991 and , 1992. Board will treat Member as if Member had originally retired for service effective , 1992 under the provisions of Charter Section 8.517-2 ("ERP"). Member agrees to cease to take any further actions against the Board, the System, or any other unit or representative of the City and County of San Francisco and to waive the right to take any further action.

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5. These undertakings by the System and Member are in full settlement of all of Member's claims for relief and they are in the nature of a settlement of a disputed claim and are not to be construed as an admission of liability by the System. They are made in specific consideration of Member's agreement hereby to (i) release all claims, known or unknown, against the System, the City and County of San Francisco, its employees, and its former employees; (ii) waive any right or entitlement to Member's claim; and (iii) fulfill all other terms of this agreement.

6. Member does hereby forever release and discharge the System, the City and County of San Francisco, all elective and appointive boards, agents, servants, attorneys, employees, departments, commissioners and officers, and all other representatives of the System or the City and County of San Francisco from any and all causes of action, judgments, liens, indebtedness, damages, losses, claims (including attorneys' fees and costs), liabilities, and demands of any kind and character that Member may now or hereafter have against any or all of the foregoing arising from implementation of the provisions of Charter Section 8.517-2 ("ERP").

7. Member agrees that s/he will neither disclose nor voluntarily allow anyone else to disclose either the reasons for or the provisions of this agreement, or otherwise communicate

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the circumstances of this dispute or the basis or terms for its resolution without the Syst 's prior written consent unless compelled to do so by legal process.

8. Member expressly states that s/he has been supplied with and has read a copy of this agreement. Member further warrants that s/he has had the opportunity to consult with counsel of his or her own choice regarding the meaning and effect of the terms and conditions of this agreement and fully understands the content and effect of this document. Member approves and accepts the terms and provisions of this agreement, agrees to be bound by it, and signs it of his or her own free will.

____
, Member

____
May , 1992

____
Retirement System

APPROVED AS TO FORM:

____
Deputy City Attorney

____
May ,1992

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Survey of San Francisco Employees Retiring Under the "3+3" Program

1. I would have been eligible to retire in February or March of this year if Proposition A had not been approved. Y N

2. I had previously considered retiring. Y N

3. I had met with the Retirement System prior to approval of Proposition A. Y N

   If yes, how many times? 1 2 3 4 5 >5

4. What was the reason for the meeting(s)?

5. I heard about the Early Retirement Program:

   a. from the Retirement System

   b. from my Department

   c. from the Ballot

   d. from the Union

   e. from my co-workers/friends

   f. from the newspaper

   g. other ____________________________

1= strongly agree; 2= agree; 3 = neutral;
4= disagree; 5= strongly disagree

6. I received the following information from the Retirement System:

   a. an information flier posted at my Department describing the Early Retirement Program. Y N

   If yes:

   I found the information adequate. 1 2 3 4 5

   The information could have been more helpful. Y N

   If so, how?

   b. a general letter informing me about the program and stating that I may be eligible Y N

   If yes:

   I found the information adequate. 1 2 3 4 5

   The information could have been more helpful. Y N

   If so, how?

   c. an information packet confirming my eligibility, estimating my benefits, and inviting me to an individual interview. Y N

   If yes:

   I found the information adequate. 1 2 3 4 5

   The information could have been more helpful. Y N

   If so, how?

7. I attended a group meeting. Y N

If yes:

The group meeting answered my general questions about the Early Retirement Program. Y N

The group meeting answered my specific questions about my own benefits. Y N

I had personal questions that I felt could not be asked in the group setting. Y N

8. I attended an individual meeting. Y N

If yes:

a. The individual meeting answered my general questions about the Early Retirement Program. Y N

b. The individual meeting answered my specific questions about my own benefits. Y N

c. My interview lasted:

15 minutes 30 minutes 45 minutes one hour
$1^1/_4$ hours $1^1/_2$ hours longer (__ hours __ minutes)

d. I spent my interview as follows:

____ minutes filling out forms
____ minutes reading written information
____ minutes discussing service eligibility
____ minutes discussing alternative pension plans
____ minutes other:
____ don't remember

9. At the individual interview, I received a second estimate including my exact benefits should I retire February 1, 1992. Y N

If yes:

I found the information adequate. 1 2 3 4 5

The information could have been more helpful. Y N

If so, how?

10. I could have made the decision to retire or not to retire just as easily if I had not received:

the post-election information flier	Y N
the information packet	Y N
the initial estimate	Y N
the second estimate (final calculation):	Y N
a group meeting:	Y N
an individual interview:	Y N

11. I needed every piece of information I received to make the decision to retire or not to retire. Y N

City and County of San Francisco

San Francisco City and County
Employees' Retirement System
Office of The General Manager

September 30, 1992

Harvey Rose
Harvey Rose Accountancy Corporation
1182 Market Street, 10th Floor
San Francisco, CA 94102

Dear Mr. Rose:

Enclosed herewith is the Employees' Retirement System's response to your draft of the Budget Analyst's management audit of the Early Retirement Program.

I wish to thank you for both the time and the opportunity to respond to your report.

Very truly yours,

Peter D. Ashe
President, Retirement Board

PDA/CF

RETIREMENT SYSTEM

RESPONSE TO

BOARD OF SUPERVISORS

BUDGET ANALYST

MANAGEMENT AUDIT

OF THE

EARLY RETIREMENT PROGRAM

AS ADMINISTERED BY THE

EMPLOYEES RETIREMENT SYSTEM

CITY AND COUNTY OF SAN FRANCISCO

SEPTEMBER 30, 1992

The Retirement System Board and staff made their best effort to implement a massive undertaking under exceedingly limited timeframes to implement Proposition A and the portions of Proposition B which impacted Retirement System benefits.

The task at hand was accomplished within the finally approved budget and on time for the City to be able to engage in the mandated work force reduction. Early Retirees received the promised benefits in a timely fashion and with very few recalculations required.

The Budget Analyst, in each report relating to the Early Retirement Program, has referred to the everyday nature of the work involved. It is true that Proposition A authorized retirements, a routine component of the Retirement System's business. However, this Charter Amendment involved the communication of a one-time only, fixed period for decision, significant benefit enhancement to approximately 6,400 eligibles members, few of which were contemplating retirement in the immediate future.

The effort required by the System to accomplish implementation of Proposition A was anything but business as usual. The timeframe of the proposition included the following milestones:

EVENT	DATE
Voting Results	November 6, 1992
Information to Members	January 5, 1992
First Early Retirement Date	February 1, 1992
Final Early Retirement Date	March 30, 1992
Payment of 3/30/92 Pension Checks	June 1, 1992

The compressed timeframe, in which ten years' worth of retirement calculations were performed in less than four months, made careful preplanning and efficient streamlining of effort impossible. In retrospect, the administration of the program by Retirement System staff is subject to critical review. The Budget Analyst's report does highlight several suggestions regarding contractor selection and contract negotiation and oversight which the Retirement System routinely employs. Presently, the Retirement System is reviewing the Request for Proposal for a Third Party Administrator for the Workers' Compensation Division; this review process conforms to the Purchaser's standard criteria and includes milestones for oversight. Many lessons have been learned as a result of this exceptional effort which will serve the City and the Retirement System should a similar project occur in the future. Finally, additional data base and other computer capacity were acquired to implement the Early Retirement Program and are being integrated into the Retirement System's day-to-day operations.

Following are comments and responses to the five sections of the Budget Analyst's management audit.

Section 1: Bidding and Contract Oversight

On July 31, 1992, when the Board of Supervisors submitted Proposition A, the Retirement System began its task of reviewing and outlining the major elements and scope of an early retirement program. As a result of the preliminary analysis, the Retirement Board issued a letter requesting proposals to provide services of a consulting firm or firms to assist the Retirement System in implementing Proposition A and Proposition B. The timeframe necessitated an accelerated bid process, which included the opportunity for major employee benefit firms to provide insights and strategic alternatives. All proposals were provided to the Budget Analyst for review.* Each proposal was extensive and reflected the understanding and varying approaches of the six firms bidding on the project. The analysis of the bids was prepared by the staff actuary and included a review of the total components. This analysis was submitted to the Retirement Board, which, after careful deliberation, selected TPF&C. The major reason for the choice of TPF&C was that, after all factors were considered, TPF&C made the *lowest* bid. It is important to note that the Retirement Board had previously conducted a search and detailed analysis of the actuarial services of four of the six bidding firms during January of 1991.

TPF&C has provided excellent service to the Retirement System and the City in its role as the System's consulting actuary. The firm identified the error in prior actuarial reports (produced by one of the other bidders) and worked with the Retirement Board and staff to correct this error. The firm's efforts and Retirement Board decisions have returned $48 million to the City in this period of fiscal crisis.

Management of the project was a joint responsibility of the Retirement System and TPF&C. Specific features of the population accepting the offer were being identified even into the last month of the contract, which necessitated ongoing changes. All of the activities necessary to accomplish this program were being planned and, almost simultaneously, efforts to implement those plans were occurring. Retirement System and contractor staffs worked side-by-side on a daily basis throughout the project. Staff and TPF&C senior management engaged in regular meetings. At the beginning of the project, multiple meetings occurred each day and, on February 1st, when the group meetings began, senior level staff of the Retirement System and TPF&C met at biweekly meetings to review of the project, looking at both its day-to-day activities and its overall progress.

Paragraphs 2, <u>Certification of Funds</u>, and 8, <u>Compensation</u> of the original contract provided for cost limits and a preliminary definition of the task.** At the time of the contract award, the Retirement System was unable to define the full scope and resources required/available of the contractor and Retirement System staff to complete the task involved. Greater efficiency could have been realized had the period from enactment of the Charter Amendment (November, 1991) to the start of the Early Retirement window (February, 1992) been longer or had the process of real implementation begun in advance of the voters decision.

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* Proposals were not provided to the Budget Analyst prior to the selection of the contractor. Proposals were provided after the commencement of this Management Audit of the Early Retirement Program in February, 1992.

** Paragraph 2 contains the standard phrase, which is included in City contracts, that funds to support the contract are subject to appropriation by the Mayor and the Board of Supervisors. Paragraph 8 states: "To the extent that the scope of the project as agreed changes, compensation, or alternatively work product, may change." In other words, no cost caps or guaranteed levels of service were provided in the contract.

There were a number of elements of the Early Retirement Program the scope of which were virtually impossible to anticipate at its onset. A major example is the prior service rights of eligible members. Prior service refers to members' service prior to membership in the pension plan, including temporary employment with the City. Initial estimates of the scope of this task were that actual prior service calculations were needed for twenty to thirty percent of the Proposition A eligible population; in fact, over 56% of eligible employees had prior service. The determination of prior service credit and purchase cost was labor intensive and, as late as the last day of the window, March 29, individuals were presenting new claims for prior service to the Retirement System. Given these facts, The Retirement System was unable to define precisely in advance a contract element which ultimately cost over $500,000 and required 11,000 hours of effort.

The following response addresses the specific contention that, had appropriate oversight been established and enforced, the Retirement System could have recognized immediately that contractor costs were being incurred much more quickly than anticipated and that the Retirement System could then have reevaluated the scope and complexity of the project. The Retirement System recognized that the scope of the task was incomplete after initial review of the 6,400 cases and evaluation of the flow of prior service requests and other service enhancement requests by members. The System and TPF&C determined as early as November 25, 1991 (only three weeks after the contract began) that the $1.3 million original contractor budget was insufficient. The Retirement System alerted the Mayor's Office, the Finance Committee and the Budget Analyst office of a need for additional funds.* We prepared a supplemental appropriation which was reviewed in both the Mayor's Office and at length by the Finance Committee and at further length by the full Board of Supervisors. This additional supplemental appropriation which was questioned at the item level was approved by the Board of Supervisors, and the Retirement System modified its contract to reflect those changes, including the creation of a not-to-exceed fixed limit contract provision. The project was completed within the revised budget. The total hours provided by TPF&C in completing the project were 36,365 and the average cost per hour was $75.62.

The implementation of Propositions A and B illustrates a systemic problem which is faced by the Board of Supervisors, and in this specific case by the Retirement Board and System when large operational charter amendments are placed on the ballot. Meeting and conferring with labor organizations on proposed Early Retirement options took approximately six months prior to the submission of the proposal to the ballot. Definition of the terms of the actual proposal did not occur until within 48 hours of the vote on the part of the members of the Board of Supervisors[1] to submit Proposition A to the voters.

A proposal which may assist the Board of Supervisors and operating departments in addressing the impact and implementation requirements of proposed legislation might include revising the submission schedule to include a defined period to occur after the final drafting of the proposed

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[1] As late as July 29, proposals varied from 5+5 to no early retirement program.

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* The Budget Analyst was not advised until the January 1992, supplemental appropriation request was received by the Board of Supervisors that the original contractor budget was insufficient.

charter amendments. Further, it is suggested that an implementation analysis with detailed cost be provided to the Board of Supervisors for consideration prior to final submission of the item to the ballot. This would offer a reasonable opportunity to address implementation as opposed to design of charter amendments and would provide for a more completely informed Board of Supervisors considering the question of submission. Finally, this process would provide better information for the electorate when considering their decision. The proposal for a changed legislative scheduling method is one the Retirement Board and staff would cooperate with the Board of Supervisors in assessing. This suggestion is modeled after the process utilized for submission of requests for bonded indebtedness of the electorate.

The Retirement Board and System welcomes constructive dialogue with the Board of Supervisors and the Budget Analyst in preparing for future implementation challenges.

Notwithstanding the difficulties of Propositions A and B implementation, this Early Retirement program was highly successful. Retirees were well informed and confident of the information and service provided. The City has realized significant savings both in 1991-1992 and in 1992-1993 as a result of the jobs eliminated as required by Proposition A. Department heads, personnel officers, union representatives, the Controller, Civil Service General Manager, and Mayor's Budget Director have all complimented the Retirement System and TPF&C on their thorough and early reporting. These reports made the immediate post-window period a manageable one with limited disruption of key services, despite the loss of 1,750 workers, 85% of whom retired on the last day of the window. Cost savings resulting from the continued vigilance against job replacement will have a major ongoing positive budget impact.

Section 2: The Benefits Offer to Previously Retired Individuals

The Retirement Board, after lengthy testimony and discussion, reconsidered the item and, on a divided vote, decided in favor of the request of six of the seven teachers. The members voting for the reinstatements reasoned that members had not received timely notice of Proposition A's provisions and consequently those members had a legal as well as moral right to the Proposition A benefits. The City Attorney advised, with respect to similarly situated members, that the actions concerning the six teachers would create a significant basis for future claims and/or litigation. The Board then refined the criteria to reduce the exceptional population from 205 to 124 retirees. The conclusion drawn by the Budget Analyst could not consider the elements of closed session discussion and advice. The recommendation that the Retirement Board be abolished and replaced by the President of the Board of Supervisors, 3 Board of Supervisor members and three employee representatives is inconsistent in that this report calls for the removal of the very trustees who voted against allowing 1991 retirees to receive Prop. A enhancements. Appendix A shows an extract of the minutes of the Retirement Board's meeting of March 24, 1992. Those voting in favor of the teachers include the three elected employee representatives and the President of the Board of Supervisors.

Section 3: Who pays?

The Budget Analyst's report on the Retirement Board's review of the supplemental appropriation during its October 8, 1991 meeting misconstrues the content and context of the discussion. This is especially true with respect to the citation regarding waste. The entire discussion was focused on insuring that trust fund expenses in advance of the election be to the benefit of the plan, even if the voters failed to approve Proposition A. *This meeting occurred prior to the Board of Supervisors' consideration of the original budget request for implementation of Proposition A. The complete transcript of this discussion is available for review at the Retirement System office. The President of the Board of Supervisors sits on the Retirement Board and therefore already plays a role in approving the Retirement System budget and for adopting the employer rates of contribution necessary to fund the pension plan.

The Retirement System trust fund needs careful oversight by persons representative of participants and others qualified to fulfill trustee's mandate to administer for the sole benefit of the plan participants. The Retirement Board's recent decisions show primary concern for participants but also care for City fiscal requirements when sound fiduciary reasons exist for adjusting rates of contributions. The significant reductions in City contribution rates as shown below reflect careful stewardship of assets and concern for appropriate and necessary expenditures.

TABLE OF EMPLOYER CONTRIBUTION RATES FOR LAST FIVE YEARS AS A PERCENTAGE OF PAYROLL			
FISCAL YEAR	MISCELLANEOUS	POLICE	FIRE
1988-89	16	81.5	96.5
1989-90	15	79	92
1990-91	15	78	91
1991-92	13	67	79
1992-93	12.67	50.57	67.49

Recoupment of plan expenditures in rate setting process is a budgetary convenience which works to the benefit of the general fund insuring precise distribution of costs to all payroll generating enterprises in proportion to accrued benefits.

Itemized justification of the recommended rates of contribution is provided in the actuarial valuation report. The Mayor's representatives and the Board of Supervisors' representative are part of the seven members which review the justification and then adopt rates of contribution.

* This point is clearly stated in the Budget Analyst's report.

To assist all concerned parties, the Retirement System is conducting an educational seminar on the actuarial valuation and contribution rate setting process on October 23, 1992 at 1:00 p.m. Meeting announcements will be distributed by October 5, 1992.

Over 200 years of trust law mandate the independence of trustees in the exercise of their fiduciary responsibilities.

Current fiscal crises for local governments make pension trusts appear to be pots of gold. Independence of trustees and trust status of asset pool are necessary to properly fund promises contractually made for plan participants.

Section 4: Reduction of Workload Resulting from Early Retirement Program Accomplishments

The Retirement System staff and the contractor performed work for the implementation of the Early Retirement program which would have been performed at some future date even without Proposition A. Data collection and estimates of benefits were calculated which resulted in a future reduction of the workload in the Retirement Services division.

The first draft of the Budget Analyst report recommends a reduction of two permanent 1810 Actuarial Clerk* for three years resulting in a savings of $211,995. This cut is intended to offset their estimate of 12,000 hours in workload reduction. At a meeting held to discuss the first draft of their report, the Retirement System informed the Budget Analyst's staff that this issue had been discussed with the Mayor's Budget Analyst and that a decision had been made to reduce the Retirement System personnel budget for fiscal year 1992-93 by $99,299 (one 1408 Principal Clerk, $41,062 in salary savings, and $8,386 in reduced mandatory fringe benefits) to offset the reduction in workload.**

It was reasonable to expect that the Board of Supervisors' Budget Analyst audit would drop the recommendation to delete two 1810 Actuarial Clerks since the Mayor had already made an even larger cut to offset this workload reduction.

The second draft makes the same recommendation (a reduction of two positions) and justifies it by simply expanding the Budget Analyst's original estimate of workload reduction from 12,000 hours to 32,220.*** The net effect of their recommendation is to reduce the Retirement System personnel appropriations by $509,892 over the next three years:

1.	Two (2) 1810 Actuarial Clerks for three years recommended in their report	$211,995

* The Budget Analyst does not recommend the elimination of two 1810 Actuarial Clerks, but rather recommends the elimination of one 1810 Actuarial Clerk and one other position at the discretion of the Retirement System.

** These reductions in the Mayor's budget were not made to offset the reduction in workload, but to meet the Mayor's required ten percent reductions. The single abolished position was abolished by the Proposition A Committee because the employee retired early. In fact, the net effect of position changes in the Retirement System is the addition of 1.1 full-time equivalent employees

*** The Budget Analyst made no changes in his recommendation regarding workload reduction from the first draft report. The number 32,220 hours does not appear in the Budget Analyst's report.

2. One (1) permanent position and $49,449 in salary reduction for three years - reduction by Mayor's office. $297,897

Net total in three years to offset workload reduction $509,892

This is only the reduction for three years. After three years, a reduction of $99,299 (one (1) permanent position and $49,448) will continue indefinitely.

Even without deleting two (2) 1810 Actuarial Clerks for three years as recommended by the report, approximately the same dollar reduction of $496,495 ($99,299 x 5 years) will be attained in just five years as a result of the Mayor's budget reduction.*

Section 5: The Survey: Information provided to Eligible Employees

The Budget Analyst's report focuses on the individual interview component of the education of potential early retirees. This analysis, while lengthy and detailed, relies on budget data rather than expenditure data. A review of the expenditures required for individual interviews shows that $299,518 was required for 2,658 individual interviews. The balance of the $687,550 was required for preparation of tax letter and final confirmation communication and for additional computer software development needed to link TPF&C and SFERS databases to accommodate Proposition B complications.

A key determinant of SFERS and TPF&C strategy for working with potential retirees was to insure that necessary information was available and to assist in recording the multiple choices required of each decided retiree. While the budget analyst survey shows varying time periods per interview, a 100% analysis of all interviews showed an average of 56 minutes per interview, plus 30 minutes preparation time.** This was consistent with the Board of Supervisors' supplemental appropriation. One single lawsuit decided against SFERS with regard to the Early Retirement Program could easily overwhelm the $360,000 in question (Biddle v. Santa Barbara).

* The net savings resulting from implementing the Budget Analyst's recommendation in addition to the reduction implemented in the FY 1992-93 budget over five years would be $849,820.

** The Budget Analyst was not provided with any documentation to support this statement. Information regarding contractor time spent on interviews was provided to ERS entirely by the contractor, and not subject to independent confirmation, as our report states.

APPENDIX A

2. REHEARING OF THE SEVEN TEACHERS REQUESTING REINSTATEMENT FROM RETIREMENT.

The Board took the following actions:

ACTION: It was moved by Driscoll, seconded by Meiberger to:

1) allow Jean Devich to rescind her retirement and retire under the provisions of Proposition A between March 1 and March 30, 1992 provided that all pension monies be repaid to the Retirement System prior to the new effective date of retirement; motion passed, 4-3. (Gibson, Breall, Wong)

2) allow Jack Pereira to rescind his retirement and retire under the provisions of Proposition A between March 1 and March 30, 1992 provided that all pension monies be repaid to the Retirement System prior to the new effective date of retirement; motion passed, 4-3. (Gibson, Breall, Wong)

3) allow Art Peterson to rescind his retirement and retire under the provisions of Proposition A between March 1 and March 30, 1992 provided that all pension monies be repaid to the Retirement System prior to the new effective date of retirement; motion passed, 4-3. (Gibson, Breall, Wong)

4) allow Lydia Stoopenkopp to rescind her retirement and retire under the provisions of Proposition A between March 1 and March 30, 1992 provided that all pension monies be repaid to the Retirement System prior to the new effective date of retirement; motion passed, 4-3 (Gibson, Breall, Wong).

5) It was moved by Driscoll, seconded by Meiberger to allow David Albeyta to rescind his retirement and retire under the provisions of Proposition A between March 1 and March 30, 1992 provided that all pension monies be repaid to the Retirement System prior to the new effective date of retirement and that Mr. Albeyta will provide substantial evidence to support his request for reinstatement; motion passed, 4-3. (Gibson, Breall, Wong)

6) It was moved by Ward, seconded by Meiberger to direct staff to notify those individuals whose retirement was effective August 21, 1991 of the Board's [illegible] at this meeting and of their opportunity to rescind their retirement and retire under the provisions of the Prop A Early Retirement Program; motion passed, 7-0.

7) It was moved by Driscoll, seconded by Gibson to deny the petition for reinstatement from Frank Lilled[illegible] [illegible] passed, 7-0.

8) It was moved by Meiberger, seconded by Breall to deny the petition for reinstatement from Peter Dahl; motion passed, 6-1 (Driscoll).

4. REQUESTS FOR RECONSIDERATION OF PRIOR PART-TIME SERVICE:

a. Robert J. Anderson
b. Lou Aronian
c. Janie Dere
d. Mary C. Garibaldi
e. Christy Ann Maguire
f. Delores A. McCray
g. Joseph Nebenzahl
h. Janice Palmer
i. Rosario Villaluna
j. Queen E. Williams

Clare Murphy, General Manager, presented a written and oral request to the Board to reconsider the prior part-time service request of the individuals listed above. The Board reviewed and discussed the requests and engaged in a question and answer session with staff.

ACTION: It was moved by Breall, seconded by Gibson to approve the requests for reconsideration of prior part-time service for those individuals listed in 4.a. to 4.j.; motion passed, 7-0.

5. REQUEST FOR APPROVAL TO DESTROY RECORDS.

Rudy Hernandez, Deputy General Manager, presented a written and oral request to the Board to destroy records. The Board reviewed and discussed the report and engaged in a question and answer session with staff.

ACTION: It was moved by Breall, seconded by Ward to approve staff's request to destroy records which have been microfilmed by Micro Images, Inc.; motion passed, 7-0.

6. RESOLUTIONS COMMENDING THE FOLLOWING RETIREMENT SYSTEM STAFF ON THEIR RETIREMENT:

a. Nomie Almendra
b. Darwin Lennox
c. Audrey Spring
d. Joe Unamun

Clare Murphy, General Manager, presented resolutions commending the above-named staff on the occasion of their retirement. The Board reviewed and discussed the resolutions.

ACTION: It was moved by Meiberger, seconded by Gibson to adopt the resolutions commending Nomie Almendra, Darwin Lennox, Audrey Spring and Joe Unamun on the occasion of their retirement; motion passed 7-0.